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DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 327

[Docket No. FSIS–2012–0028]

RIN 0583–AD51

Eligibility of Namibia To Export Meat Products to the United States

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending the Federal meat inspection regulations to add Namibia to the list of countries eligible to export meat and meat products to the United States. FSIS has reviewed Namibia's laws, regulations, and inspection system as implemented, and has determined that they are equivalent to the Federal Meat Inspection Act (FMIA), the regulations implementing this statute, and the United States food safety system for meat and meat products.

Under this final rule, Namibia will only be able to export to the United States boneless (not ground) raw beef products, such as primal cuts, chuck, blade, and beef trimmings, processed in certified Namibian establishments, because FSIS only assessed Namibia's meat inspection system with respect to these products. Namibia would need to submit additional information for FSIS to review before FSIS would allow Namibia to export other beef product or product from other types of livestock to the United States. All products that Namibia exports to the United States will be subject to reinspection at United States ports-of-entry by FSIS inspectors.

DATES: *Effective Date:* September 12, 2016.

FOR FURTHER INFORMATION CONTACT: Dr. Daniel L. Engeljohn, Assistant Administrator, Office of Policy and Program Development, Food Safety and Inspection Service, U.S. Department of Agriculture; Telephone: (202) 205–0495.

SUPPLEMENTARY INFORMATION:

Background

On September 18, 2015, FSIS published a proposed rule in the **Federal Register** (80 FR 56401) to add Namibia to the list of countries eligible to export meat products to the United States (9 CFR 327.2(b)). This final rule is consistent with the proposed rule.

As is explained in the proposed rule, under the FMIA and implementing regulations, meat and meat products imported into the United States must be produced under standards for safety, wholesomeness, and labeling that are equivalent to those of the United States (21 U.S.C. 620). The FMIA also requires that the livestock from which such imports are produced be slaughtered and handled in connection with slaughter in a manner that is consistent with the Humane Methods of Slaughter Act (7 U.S.C. 1901–1906).

Section 327.2 of Title 9 of the Code of Federal Regulations (CFR) sets out the procedures by which foreign countries may become eligible to export meat and meat products to the United States. Paragraph 327.2(a) requires that a foreign country's meat inspection system provide standards equivalent to those of the United States and to provide legal authority for the inspection system and its implementing regulations that is equivalent to that of the United States. Specifically, a country's laws and regulations must impose requirements equivalent to those of the United States with respect to: (1) Ante-mortem inspection, humane methods of slaughter and handling, and post-mortem inspection by, or under the direct supervision of, a veterinarian; (2) official controls by the national government over establishment construction, facilities, and equipment; (3) direct and continuous official supervision of slaughtering and preparation of product by inspectors to ensure that product is not adulterated or misbranded; (4) complete separation of establishments certified to export from those not certified; (5) maintenance of a single standard of inspection and sanitation throughout certified establishments; (6) requirements for sanitation and for sanitary handling of product at establishments certified to export; (7) official controls over condemned product; (8) a Hazard Analysis and Critical Control Point (HACCP) system; and (9) any other requirements found in the FMIA and its implementing regulations (9 CFR 327.2(a)(2)(ii)).

The country's inspection system must also impose requirements equivalent to those of the United States with respect to: (1) Organizational structure and staffing to ensure uniform enforcement of the requisite laws and regulations in all certified establishments; (2) national government control and supervision over the official activities of employees or licensees; (3) qualified inspectors; (4) enforcement and certification authority; (5) administrative and technical support; (6) inspection, sanitation, quality, species verification and residue standards; and (7) any other inspection requirements (9 CFR 327.2(a)(2)(i)).

Evaluation of the Namibian Meat Inspection System

As explained in the proposed rule, in 2002 and again in 2005, the government of Namibia requested approval to export meat (beef) products to the United States. Namibia stated that, if approved, its immediate intent was to export boneless (not ground) raw beef products such as primal cuts, chuck, blade, and beef trimmings to the United States.

In 2006, FSIS conducted a document review to evaluate the laws, regulations, and other documentation used by Namibia to execute its meat inspection program. FSIS examined the information submitted by Namibia to verify that the following equivalence components were addressed satisfactorily with respect to standards, activities, resources, and enforcement: (1) Government Oversight; (2) Statutory Authority and Food Safety Regulations; (3) Sanitation; (4) Hazard Analysis and Critical Control Point Systems; (5) Chemical Residue Testing Programs; and (6) Microbiological Testing Programs. The document review was satisfactory to FSIS, and FSIS scheduled an on-site review to evaluate all aspects of Namibia's meat inspection program.

In 2006, FSIS conducted an on-site audit of Namibia's meat inspection system and identified systemic deficiencies within the six equivalence components. In response to this audit, Namibia submitted a corrective action plan that addressed FSIS's findings. In

2009, FSIS conducted a follow-up on-site audit to verify that all outstanding issues identified during the previous audit had been resolved and that Namibia had satisfactorily implemented all the laws, regulations, and instructions to the field that FSIS found to be equivalent during the document review and previous audit. Nonetheless, the new audit identified new systemic deficiencies within the equivalence components of government oversight, sanitation, HACCP, chemical residue, and microbiological testing programs.

Following the 2009 on-site audit, Namibia again provided a comprehensive corrective action plan that addressed the findings identified. In 2013, FSIS proceeded with a follow-up on-site audit of Namibia's meat inspection system and verified that Namibia had satisfactorily implemented the corrective actions taken in response to the 2009 on-site audit. The 2013 audit identified new findings within the equivalence components of government oversight, statutory authority and food safety regulations, sanitation, and chemical residue testing programs.

In response to the 2013 audit findings, Namibia implemented immediate corrective actions and submitted another corrective action plan that addressed the findings identified during the audit of its food safety system. FSIS conducted another on-site audit in 2014 to verify that Namibia had effectively implemented those corrective actions.

FSIS concluded, on the basis of the 2014 audit, that Namibia had fully implemented the corrective action plan that it submitted in response to the 2013 audit. FSIS did not find any significant problems during the 2014 on-site audit. Furthermore, through the audit, FSIS found that Namibia had implemented a sampling and testing program for Shiga toxin-producing *Escherichia coli* (STEC) that is equivalent to FSIS's program. Industry in Namibia is required to control for or address STEC so that it is at a non-detectable level, and government testing in Namibia verifies that industry has the necessary controls in place.

For more detailed information on FSIS's evaluation of the Namibian meat inspection system, see the proposed rule (80 FR 56401) and for the full audit reports, go to: *http://www.fsis.usda.gov/wps/portal/fsis/topics/international-affairs/importing-products/eligible-countries-products-foreign-establishments/foreign-audit-reports.*

Final Rule

After considering the comments received on the proposed rule, discussed below, FSIS concludes that Namibia's meat inspection system is equivalent to the United States' inspection system for meat and meat products. Therefore, FSIS is amending its meat inspection regulations to add Namibia to the list of countries eligible to export meat and meat products to the United States (9 CFR 327.2(b)). Under FSIS's import regulations, the government of Namibia must certify to FSIS that those establishments that wish to export meat and meat products to the United States are operating under requirements equivalent to those of the United States (9 CFR 327.2(a)).

FSIS will verify that the establishments certified by Namibia's government meet the United States requirements through periodic and regularly scheduled audits of Namibia's meat inspection system. In the future, if Namibia wants to export other beef products (*e.g.,* ground beef) or other meat products to this country (*e.g.,* pork products), it will need to notify FSIS and submit information about its requirements and inspection program for these products. FSIS would then review the information and determine whether the Agency needs to audit the operations in Namibia producing these products to determine whether the requirements and inspection program for these products is equivalent to those in the United States. Namibia would not be allowed to export additional products to the United States until FSIS determines that the country's requirements and inspection program for the products are equivalent to FSIS's system.

Although a foreign country may be listed in FSIS's regulations as eligible to export meat and meat products to the United States, the exporting country's products must also comply with all other applicable requirements of the United States, including those of the Animal and Plant Health Inspection Service (APHIS). These requirements include restrictions under 9 CFR part 94 of the APHIS regulations, which regulate the importation of meat and meat products from countries into the United States to control the spread of specific animal diseases. According to 9 CFR 94.1, APHIS listed Namibia as a country free of rinderpest and foot-and-mouth disease (excluding the region north of the Veterinary Cordon Fence).

Also, under this final rule, all meat and meat products exported to the United States from Namibia will be subject to reinspection by FSIS at United States ports of entry for, but not limited to, transportation damage, product and container defects, labeling, proper certification, general condition, and accurate count.

FSIS will conduct other types of reinspection activities, such as incubation of canned products to ensure product safety and taking product samples for laboratory analysis to detect any drug or chemical residues or pathogens that may render the product unsafe or any species or product composition violations that would render the product economically adulterated. Products that pass reinspection will be stamped with the official mark of inspection and allowed to enter United States commerce. If they do not meet this country's requirements, they will be refused entry and within 45 days will have to be returned to the country of origin, destroyed, or converted to animal food (subject to approval of the Food and Drug Administration (FDA)), depending on the violation. The import reinspection activities can be found on the FSIS Web site at: *http://www.fsis.usda.gov/wps/portal/fsis/topics/international-affairs/importing-products/port-of-entry-procedures.*

In addition, Namibian meat and meat products will be eligible for importation into the United States only if they are from animals slaughtered on or after the effective date of this final rule.

Summary of Comments and Responses

FSIS received 92 comments on the proposed rule. Eighty-one of the comments were received from individuals; 10 of the comments were received from trade associations representing American cattlemen and the beef industry, pork producers, milk producers, and farmers; and one comment was from a consumer advocacy group. Of the 92 comments, 87 were against the proposed rule, including those from all of the trade associations. Four individuals and one advocate on the behalf of the Namibian Meat Board were in support of the proposed rule.

The following is a discussion of the relevant issues raised in the comments.

Comments: Almost all of the comments expressed concern about the recent outbreaks of foot and mouth disease (FMD) in the areas north of the Veterinary Cordon Fence (VCF), a fence separating Northern Namibia and neighboring countries from the central and southern parts of Namibia that is designed to contain FMD outbreaks north of the fence. The majority of the individuals and various trade associations stated that the prevalence of FMD in the region presents a threat to the security of U.S. cattle and food safety. The commenters stated that Namibia cannot guarantee that FMD-infected animals will stay out of the

region in Namibia south of the VCF. Several trade associations also expressed concern about deficiencies found in a 2013 European Commission audit of Namibia's animal health control system.[1] One trade association concluded that these deficiencies would result in commingling of contaminated cattle with cattle from the FMD-free zone south of the VCF. A few commenters were also concerned that the proposed rule did not address what steps FSIS would take to ensure that such commingling does not occur.

Several trade associations also expressed concern in their comments about the future of the VCF. Commenters cited recent statements made by the Namibian Agricultural Minister who, according to the commenters, has expressed a desire to have the fence removed. Additional commenters pointed to the lack of structural integrity of the VCF. Those commenters stated that the VCF is frequently breached by the country's elephant and buffalo population, which raises the possibility of other wildlife traveling through carrying FMD.

Furthermore, one trade association expressed concern over a 30-kilometer section of the VCF dismantled by the authorities. The trade association argued that this places southern Namibia at risk of becoming re-infected with FMD, because it allows buffaloes and elephants to re-enter the FMD-free zone. Additionally, some commenters expressed concern about the lack of a recent APHIS audit, and requested that FSIS delay any further action on the proposed rule until APHIS conducts an audit and publishes a formal risk assessment.

Response: Although Namibia may be listed in FSIS's regulations as eligible to export poultry products to the United States, the products must also comply with all other applicable requirements of the United States, including those of USDA's APHIS, before any products can enter the United States.

APHIS is responsible for preventing the entry of foreign animal diseases into the livestock population of the United States. APHIS determines the animal health status of foreign countries or regions for certain diseases, and this process is outlined in Title 9 CFR part 92. These animal health status determinations help establish the import requirements for livestock and products derived from them.

In 2006, APHIS recognized the region of Namibia south of the VCF as free of FMD and rinderpest (71 FR 62198). This regulation relieved certain restrictions due to FMD and rinderpest on the importation into the United States of certain live animals and animal products from all regions of Namibia except the region north of the VCF. APHIS is developing a prioritization process for conducting reviews of countries or regions that have received animal health status recognition, such as the FMD freedom recognition granted to a region of Namibia. FSIS has provided the concerns identified in the comments on the proposed rule to APHIS, and APHIS will consider these as they finalize and implement their prioritization process. Therefore, at this time, APHIS rules allow beef from the region of Namibia south of the VCF to be exported to the United States.

FSIS and APHIS work closely together to ensure that all meat and meat products imported into the United States comply with the regulatory requirements of both agencies. In 1985, FSIS and APHIS signed a memorandum of understanding (MOU) in which both agencies agreed to cooperate in meeting their respective needs relative to information exchange of disease surveillance, diagnostic testing, investigations, trace backs, and animal and public health emergencies to achieve their related objectives of reducing the spread of animal diseases, and of providing a wholesome and economical food supply. The MOU is updated periodically to ensure that it addresses matters of importance to both agencies. The MOU was last updated November 20, 2014. In accord with this MOU, FSIS and APHIS established procedures for communication between the two agencies regarding the inspection, handling, and disposition of imported meat products. APHIS and FSIS communicate regularly to ensure that products APHIS has restricted from entering the United States because of animal disease concerns are not imported into the United States.

Comments: A majority of the trade associations and the consumer advocacy group comments expressed concern about the deficiencies found in the 2006, 2009, and 2013 FSIS audits, particularly with respect to problems FSIS found in the Namibian food-safety system, the lack of collaboration FSIS found between the Namibian ministries, and staffing problems FSIS identified in the ministries.

Response: FSIS assesses a country's food regulatory system in terms of six equivalence components and uses its findings from the assessment in deciding whether or not to grant eligibility to the country for the importation of its meat or meat food products into the United States. On the basis of the 2014 follow-up on-site audit, FSIS determined that Namibia fully met the criteria within those six equivalence components, in accordance with 9 CFR 327.2. Specifically, FSIS found that Namibia had a system in place to verify and enforce HACCP requirements. FSIS also found that Namibia had an effective strategy for implementing sample collection for chemical residue monitoring. Regarding staffing problems found during the 2009 on-site audit within the government oversight component, Namibia implemented corrective action plans for relief inspection personnel. FSIS concluded that Namibia had satisfactorily addressed the findings in this component. FSIS found Namibia to have remedied all deficiencies regarding the components that the Agency had uncovered in past audits, and determined that, as implemented, Namibia's inspection system (slaughter and processing) for beef is equivalent to the United States' meat inspection system. The details of Namibia's compliance with those components can all be found on the FSIS Web site at: *http://www.fsis.usda.gov/wps/portal/fsis/topics/international-affairs/importing-products/eligible-countries-products-foreign-establishments/foreign-audit-reports.*

Additionally, regarding deficiencies noted during past FSIS audits of the Namibian food-safety system, the history, background and verification of corrective actions are documented in the 2009, 2013, and 2014 final audit reports.

Namibia has established its equivalence and when this final rule is effective, Namibia will be eligible to export certain beef products to the United States. FSIS ensures that countries maintain equivalence through a three-part process, involving: (1) Recurring equivalence reviews (*e.g.,* through use of the country Self Reporting Tool or other documentation from the Central Competent Authority) of the exporting country's applicable laws and regulations; (2) periodic on-site equivalence verification audits in the exporting country; and (3) ongoing point-of-entry (POE) re-inspection of shipments received from the exporting country. These POE activities include examination of products for defects,

[1] Final Report of an audit, carried out in Namibia, from 19 February to 01 March 2013, in order to evaluate the animal health control system in place, in particular relation to controls on foot-and-mouth disease. The audit found insufficient implementation and documentation of actions following the incursion of FMD positive buffalo in the disease-free zone. An Audit conducted by the European Commission, Health and Consumers Directorate—General, September 7, 2013.

container examinations, and laboratory analysis of product samples.

For all these reasons, therefore, concerns about deficiencies found in past FSIS audits are unwarranted. The deficiencies have been remedied and the Namibian inspection system will be subject to ongoing verification to ensure that it continues to maintain standards equivalent to those of the United States.

Comments: Some comments from individuals and trade associations expressed concern over the economic effect that the rule would have on American ranchers. These commenters stated that the importation of Namibian beef would lower the price of beef overall and cause a decline in sales and job loss for the American beef industry. Two individuals supported the proposed rule and agreed with FSIS's economic analysis.

Response: FSIS estimates that the expected amount of imported Namibian beef is only 0.008 [2] to 0.05 percent of the United States beef production; therefore, there will be no significant impact on sales and the United States economy.

Comment: The one trade association that disputed FSIS's economic analysis specifically stated that applying multipliers from a paper by VanSickle,[3] Namibia's beef import of 1.9 million pound in the first year (after the rule is finalized) and 12.5 million pounds in the 5th year will likely result in a negative impact on the United States economy of $14.9 million and $96 million, respectively; and the United States will suffer 127 job losses in the first year and 837.5 job losses in the 5th year.

Response: The multipliers the commenter used, *i.e.* $3.87 impact on total United States economic output per $1 decline in sales for the cattle ranching and farming sector and 67 United States job losses per 1 million pounds of additional beef imports, are from a paper that has not been peer-reviewed. The multipliers in the VanSickle paper were results from an input-output model (I–O model) named IMPLAN. However, the paper did not describe the model or the input data, nor specify the assumptions of the model. Therefore, there is no way to validate the model's accuracy in depicting the linkage from beef imports to total economic output and job loss. As a consequence, the credibility of the multipliers lacks support. All economic projection models and estimations are based on assumptions. To properly interpret a model's projections, it is important to understand and evaluate the accuracy of its assumptions every step of the way. Neither the VanSickle paper nor the commenter ever addressed any of these issues.

In fact, the use of an I–O model such as IMPLAN has been considered problematic in economic research. In addition to the lack of transparency inherent in the software-generated calculations, peer-reviewed journal articles have also suggested that inaccurate production functions are one of IMPLAN's weakest links, and that an I–O model has the potential to over-calculate impact.[4] In addition, in a review of several studies that used methodology similar to IMPLAN, Kinnaman (2011) found the studies to be based on questionable assumptions that likely overstate the economic impact.[5] Furthermore, Brown and Munasib & Rickman (2014) also found studies using I–O models over-estimated actual economic impact of natural gas extraction. Because of the difficulty in using the I–O model appropriately and correctly, there are hardly any relevant studies based on such models for agriculture imports that have gone through the peer review process of an economic journal.[6]

There are other economic impact models that are more comprehensive and more robust than I–O models, such as econometric simulation models (ESMs) or computable general equilibrium (CGE) models. It is quite an undertaking to use these models, for modelers have to collect data and adjust assumptions in the models before running estimations. It is only sensible to use these models when the size of expected imports is significant. Because the projected amount of beef imports from Namibia is very small, only 0.07 to 0.44 percent of total United States imports, FSIS believes it does not need a model to tell that it is very unlikely to have a noticeable impact on beef prices and other economic measures.

Executive Order 12866 and 13563, and the Regulatory Flexibility Act

Executive Orders (E.O.) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule was designated a "non-significant" regulatory action under section 3(f) of E.O. 12866. Accordingly, this rule was not reviewed by the Office of Management and Budget (OMB) under E.O. 12866.

Economic Impact Analysis for Namibia Export Equivalence

This final rule adds Namibia to the list of countries eligible to export meat products into the United States. The government of Namibia intends to certify only one Namibian establishment as eligible to export boneless raw beef products to the United States. Given this establishment's beef production capacity and the projected export volume, FSIS projects that this final rule will not have a significant impact on the United States economy. The annual boneless beef production of this establishment averaged 21.4 million pounds from 2008 to 2014. The projected volume of exports to the United States is about 1.9 million pounds in the first year, increasing to about 12.5 million pounds in five years.[7] The average annual United States domestic beef production in 2012–2015 was 24.9 billion pounds, projected to be 24.6 billion pounds in 2016.[8] The total United States import of beef averages 2.70 billion pounds per year for 2012–2015, projected to be 2.85

[2] In the proposed rule, FSIS used 2012–2014 U.S. beef production data to estimate the expected amount of imported Namibian beef would be .007 to .05 percent of the United States beef production. In the final rule, FSIS used U.S. beef production data from 2012–2015 to update the estimated expected amount of imported Namibian beef to be .008 to .05 percent of the United States beef production.

[3] The VanSickle paper is a comment paper submitted to APHIS in 2004 by John VanSickle on the economic analysis in the APHIS proposed rule for Bovine Spongiform Encephalopathy: Minimal Risk Regions and Importation of Commodities. The commenter attached a copy of the paper.

[4] Lazarus, W.F., D.E. Platas, and G.W. Morse, 2002. IMPLAN's Weakest Link: Production Functions or Regional Purchase Coefficients? *Journal of Regional Analysis and Policy,* 32 (2002): 33–48.; Brown, J.P., Goetz, S.J., Ahearn, M.C., & Liang, C. (2014) Linkages between Community-Focused Agriculture, Farm Sales, and Regional Growth. *Economic Development Quarterly,* 28(1), 5–16.

[5] Kinnaman, T.C., 2011. The Economic Impact of Shale Gas Extraction: A Review of Existing Studies. *Ecol. Econ.* 70: 1243–1249.

[6] Brown, J.P., Goetz, S.J., Ahearn, M.C., & Liang, C. (2014) Linkages between Community-Focused Agriculture, Farm Sales, and Regional Growth. *Economic Development Quarterly,* 28(1), 5–16; Munasib, A. and D.S. Rickman, 2015. Regional Economic Impacts of the Shale Gas and Tight Oil Boom: A Synthetic Control Analysis. *Regional Science and Urban Economics,* 50:1–17.

[7] According to Namibia, this is the "optimistic" projection they wish to achieve. Market conditions will affect actual results.

[8] *http://www.ers.usda.gov/media/2009937/ldp-m-260.pdf,* accessed on April 7, 2016; part of *Livestock, Dairy, & Poultry Outlook* by Economic Research Service, USDA.

billion pounds in 2016.[9] Therefore, the projected Namibian beef imports in the first year would only be about 0.008 percent of total United States production, and 0.07 percent of total United States imports. If Namibia achieves the projected export goal in five years, and assuming that United States beef production and import volume stay about the same, the projected beef imports from Namibia would still only be about 0.05 percent of total United States production, and 0.44 percent of total United States imports.

Although Namibia indicates that, for now, it is seeking to export boneless beef products only, this final rule would not preclude their exporting other meat products in the future, if the products meet all other applicable requirements of the United States, including those of USDA's APHIS, and any additional requirements that FSIS might have in place with regard to the products. Therefore, the long-term economic impact could be larger than what FSIS can assess right now.

Regulatory Flexibility Act Assessment

The FSIS Administrator certifies that, for the purposes of the Regulatory Flexibility Act (5 U.S.C. 601–602), this final rule will not have a significant impact on a substantial number of small entities in the United States. As mentioned above, the expected trade volume is very small. Therefore, the action should have no significant impact on small entities that produce beef products domestically.

Executive Order 12988, Civil Justice Reform

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under this rule: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) no administrative proceedings will be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

No new paperwork requirements are associated with this rule. Foreign countries wanting to export meat and meat products to the United States are required to provide information to FSIS certifying that their inspection systems provide standards equivalent to those of the United States, and that the legal authority for the system and their implementing regulations are equivalent to those of the United States. This information collection was approved under OMB number 0583–0153. The rule contains no other paperwork requirements.

E-Government Act

FSIS and USDA are committed to achieving the purposes of the E-Government Act (44 U.S.C. 3601, *et seq.*) by, among other things, promoting the use of the Internet and other information technologies and providing increased opportunities for citizen access to Government information and services, and for other purposes.

Additional Public Notification

FSIS will officially notify the World Trade Organization's Committee on Sanitary and Phytosanitary Measures (WTO/SPS Committee) in Geneva, Switzerland, of this rule and will announce it online through the FSIS Web page located at: *http://www.fsis.usda.gov/wps/portal/fsis/topics/regulations/federal-register/interim-and-final-rules.*

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS Web page located at: *http://www.fsis.usda.gov/federal-register.*

FSIS also will make copies of this publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The Update is available on the FSIS Web page. Through the Web page, FSIS is able to provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *http://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

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Send your completed complaint form or letter to USDA by mail, fax, or email:

Mail: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410.

Fax: (202) 690–7442.

Email: program.intake@usda.gov.

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

List of Subjects in 9 CFR Part 327

Food labeling, Food packaging, Imports, Meat inspection.

For the reasons set out in the preamble, FSIS amends 9 CFR part 327 as follows:

PART 327—IMPORTED PRODUCTS

■ 1. The authority citation for part 327 continues to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

§ 327.2 [Amended]

■ 2. Amend § 327.2(b) by adding "Namibia" in alphabetical order to the list of countries.

Done at Washington, DC, on July 1, 2016.

Alfred V. Almanza,

Acting Administrator.

[FR Doc. 2016–16546 Filed 7–12–16; 8:45 am]

BILLING CODE 3410–DM–P

[9] Ibid.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 876

[Docket No. FDA–2016–N–1813]

Medical Devices; Gastroenterology-Urology Devices; Classification of the Metallic Biliary Stent System for Benign Strictures

AGENCY: Food and Drug Administration, HHS.

ACTION: Final order.

SUMMARY: The Food and Drug Administration (FDA) is classifying the metallic biliary stent system for benign strictures into class II (special controls). The special controls that will apply to the device are identified in this order and will be part of the codified language for the metallic biliary stent system for benign strictures' classification. The Agency is classifying the device into class II (special controls) in order to provide a reasonable assurance of safety and effectiveness of the device.

DATES: This order is effective July 13, 2016. The classification was applicable on June 3, 2016.

FOR FURTHER INFORMATION CONTACT: April Marrone, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G218, Silver Spring, MD 20993–0002, 240–402–6510, *april.marrone@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with section 513(f)(1) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360c(f)(1)), devices that were not in commercial distribution before May 28, 1976 (the date of enactment of the Medical Device Amendments of 1976), generally referred to as postamendments devices, are classified automatically by statute into class III without any FDA rulemaking process. These devices remain in class III and require premarket approval, unless and until the device is classified or reclassified into class I or II, or FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i), to a predicate device that does not require premarket approval. The Agency determines whether new devices are substantially equivalent to predicate devices by means of premarket notification procedures in section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and part 807 (21 CFR part 807) of the regulations.

Section 513(f)(2) of the FD&C Act, as amended by section 607 of the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144), provides two procedures by which a person may request FDA to classify a device under the criteria set forth in section 513(a)(1) of the FD&C Act. Under the first procedure, the person submits a premarket notification under section 510(k) of the FD&C Act for a device that has not previously been classified and, within 30 days of receiving an order classifying the device into class III under section 513(f)(1), the person requests a classification under section 513(f)(2). Under the second procedure, rather than first submitting a premarket notification under section 510(k) and then a request for classification under the first procedure, the person determines that there is no legally marketed device upon which to base a determination of substantial equivalence and requests a classification under section 513(f)(2) of the FD&C Act. If the person submits a request to classify the device under this second procedure, FDA may decline to undertake the classification request if FDA identifies a legally marketed device that could provide a reasonable basis for review of substantial equivalence with the device or if FDA determines that the device submitted is not of ''low-moderate risk'' or that general controls would be inadequate to control the risks and special controls to mitigate the risks cannot be developed.

In response to a request to classify a device under either procedure provided by section 513(f)(2) of the FD&C Act, FDA will classify the device by written order within 120 days. This classification will be the initial classification of the device.

On August 27, 2015, Boston Scientific Corporation submitted a request for classification of the WallFlex Biliary RX Fully Covered Stent System RMV under section 513(f)(2) of the FD&C Act. The manufacturer recommended that the device be classified into class II (Ref. 1).

In accordance with section 513(f)(2) of the FD&C Act, FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1). FDA classifies devices into class II if general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls to provide reasonable assurance of the safety and effectiveness of the device for its intended use. After review of the information submitted in the request, FDA determined that the device can be classified into class II with the establishment of special controls. FDA believes these special controls, in addition to general controls, will provide reasonable assurance of the safety and effectiveness of the device.

Therefore, on June 3, 2016, FDA issued an order to the requestor classifying the device into class II. FDA is codifying the classification of the device by adding 21 CFR 876.5011.

Following the effective date of this final classification order, any firm submitting a premarket notification (510(k)) for a metallic biliary stent system for benign strictures will need to comply with the special controls named in this final order. The device is assigned the generic name metallic biliary stent system for benign strictures, and it is identified as a prescription device intended for the treatment of benign biliary strictures. The biliary stents are intended to be left indwelling for a limited amount of time and subsequently removed. The device consists of a metallic stent and a delivery system intended to place the stent in the bile duct. This device type is not intended for use in the vasculature.

FDA has identified the following risks to health associated with this type of device, and the measures required to mitigate these risks, in table 1.

TABLE 1—METALLIC BILIARY STENT SYSTEM FOR BENIGN STRICTURES RISKS AND MITIGATION MEASURES

Identified risk	Mitigation measure
Adverse tissue reaction	Biocompatibility Evaluation.
	Labeling.
Infection	Sterilization Validation.
	Shelf Life Validation.
	Labeling.
Bile duct obstruction	Clinical Performance Testing.
Stent migration	Non-clinical Performance Testing.
Stent does not resolve obstruction	Shelf Life Validation.
Stent cannot be placed	Labeling.
Expansion/compression forces.	
Foreshortening.	
Trauma to bile ducts	Clinical Performance Testing.

TABLE 1—METALLIC BILIARY STENT SYSTEM FOR BENIGN STRICTURES RISKS AND MITIGATION MEASURES—Continued

Identified risk	Mitigation measure
During stent deployment During removal Due to stent migration During stent indwell. Inability to safely remove stent. Expansion/compression forces.	Non-clinical Performance Testing. Shelf Life Validation. Labeling.

FDA believes that the special controls, in combination with the general controls, address these risks to health and provide reasonable assurance of safety and effectiveness.

A metallic biliary stent system for benign strictures is not safe for use except under the supervision of a practitioner licensed by law to direct the use of the device. As such, the device is a prescription device and must satisfy prescription labeling requirements (see 21 CFR 801.109, *Prescription devices*).

Section 510(m) of the FD&C Act provides that FDA may exempt a class II device from the premarket notification requirements under section 510(k) if FDA determines that premarket notification is not necessary to provide reasonable assurance of the safety and effectiveness of the device. For this type of device, FDA has determined that premarket notification is necessary to provide reasonable assurance of the safety and effectiveness of the device. Therefore, this device type is not exempt from premarket notification requirements. Persons who intend to market this type of device must submit to FDA a premarket notification, prior to marketing the device, which contains information about the metallic biliary stent system for benign strictures they intend to market.

II. Analysis of Environmental Impact

The Agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

III. Paperwork Reduction Act of 1995

This final order establishes special controls that refer to previously approved collections of information found in other FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in part 807, subpart E, regarding premarket notification submissions, have been approved under OMB control number 0910–0120, and the collections of information in 21 CFR part 801, regarding labeling, have been approved under OMB control number 0910–0485.

IV. Reference

The following reference has been placed on display in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday, and is available electronically at *http://www.regulations.gov.*

1. DEN150040: De Novo request from Boston Scientific Corporation, dated August 27, 2015.

List of Subjects in 21 CFR Part 876

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 876 is amended as follows:

PART 876—GASTROENTEROLOGY-UROLOGY DEVICES

■ 1. The authority citation for part 876 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 360l, 371.

■ 2. Add § 876.5011 to subpart F to read as follows:

§ 876.5011 Metallic biliary stent system for benign strictures.

(a) *Identification.* A metallic biliary stent system for benign strictures is a prescription device intended for the treatment of benign biliary strictures. The biliary stents are intended to be left indwelling for a limited amount of time and subsequently removed. The device consists of a metallic stent and a delivery system intended to place the biliary stent in the bile duct. This device type is not intended for use in the vasculature.

(b) *Classification.* Class II (special controls). The special controls for this device are:

(1) Clinical performance testing must demonstrate or provide the following:

(i) The ability to safely place and subsequently remove the stent after the maximum labeled indwell period.

(ii) All adverse event data including bile duct obstruction and trauma to the bile duct.

(iii) The stent resolves strictures during the maximum labeled indwell period.

(iv) Stricture resolution is maintained post-stent removal.

(2) Non-clinical performance testing must demonstrate that the device performs as intended under anticipated conditions of use. The following performance characteristics must be demonstrated:

(i) Corrosion testing to demonstrate that the stent maintains its integrity during indwell and does not release potentially toxic levels of leachables.

(ii) Stent dimensional testing supports the intended use.

(iii) Compression and expansion forces must be characterized.

(iv) The delivery catheter must deliver the stent to the intended location and the stent must not be adversely impacted by the delivery catheter during deployment and catheter withdrawal.

(v) The delivery system must withstand clinically anticipated forces.

(vi) Compatibility in a magnetic resonance environment.

(3) All patient contacting components of the device must be demonstrated to be biocompatible.

(4) Performance data must demonstrate the sterility of the device components intended to be provided sterile.

(5) Shelf life testing must demonstrate that the device maintains its performance characteristics and that packaging maintains sterility for the duration of the labeled shelf life.

(6) Labeling for the device must include:

(i) A detailed summary of the clinical testing including device effectiveness, and device- and procedure-related adverse events.

(ii) Appropriate warning(s) to accurately ensure usage of the device for the intended patient population.

(iii) Shelf life.

(iv) Compatibility information for use in the magnetic resonance environment.

(v) Stent foreshortening information supported by dimensional testing.

Dated: July 6, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–16530 Filed 7–12–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2016–0643]

Drawbridge Operation Regulation; Willamette River at Portland, OR

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs four Multnomah County bridges: The Broadway Bridge, mile 11.7; Burnside Bridge, mile 12.4; Morrison Bridge, mile 12.8; and Hawthorne Bridge, mile 13.1; all crossing the Willamette River at Portland, OR. This deviation is necessary to accommodate the annual Portland Providence Bridge Pedal event. The deviation allows the bridges to remain in the closed-to-navigation position to allow safe roadway movement of event participants.

DATES: This deviation is effective from 6 a.m. to 12:30 p.m. on August 14, 2016.

ADDRESSES: The docket for this deviation, [USCG–2016–00643] is available at *http://www.regulations.gov.* Type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mr. Steven Fischer, Bridge Administrator, Thirteenth Coast Guard District; telephone 206–220–7282, email *d13-pf-d13bridges@uscg.mil.*

SUPPLEMENTARY INFORMATION: Multnomah County has requested a temporary deviation from the operating schedule for the Broadway Bridge, mile 11.7; Burnside Bridge, mile 12.4; Morrison Bridge, mile 12.8; and Hawthorne Bridge, mile 13.1; all crossing the Willamette River at Portland, OR. The requested deviation is to accommodate the annual Portland Providence Bridge Pedal event. To facilitate this event, the draws of theses bridges will be maintained as follows: The Broadway Bridge provides a vertical clearance of 90 feet in the closed-to-navigation position; Burnside Bridge provides a vertical clearance of 64 feet in the closed-to-navigation position; Morrison Bridge provides a vertical clearance of 69 feet in the closed-to-navigation position; and Hawthorne Bridge provides a vertical clearance of 49 feet in the closed-to-navigation position; all clearances are referenced to the vertical clearance above Columbia River Datum 0.0. The normal operating schedule for all four bridges is in 33 CFR 117.897. This deviation allows the Broadway Bridge, Burnside Bridge, Morrison Bridge, and Hawthorne Bridge to remain in the closed-to-navigation position and need not open for maritime traffic from 6 a.m. to 12:30 p.m. on August 14, 2016. Waterway usage on this part of the Willamette River includes vessels ranging from commercial tug and barge to small pleasure craft.

Vessels able to pass through the bridge in the closed-to-navigation positions may do so at any time. The bridges will be able to open for emergencies, and there is no immediate alternate route for vessels to pass. The Coast Guard will inform the users of the waterway, through our Local and Broadcast Notices to Mariners, of the change in operating schedule for the bridges so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridges must return to their regular operating schedules immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: July 6, 2016.

Steven M. Fischer,

Bridge Administrator, Thirteenth Coast Guard District.

[FR Doc. 2016–16471 Filed 7–12–16; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 63

[EPA–HQ–OAR–2010–0682; FRL–9948–92–OAR]

RIN 2016–AS83

National Emission Standards for Hazardous Air Pollutant Emissions: Petroleum Refinery Sector Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action amends the National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Petroleum Refineries in three respects. First, this action adjusts the compliance date for regulatory requirements that apply at maintenance vents during periods of startup, shutdown, maintenance or inspection for sources constructed or reconstructed on or before June 30, 2014. Second, this action amends the compliance dates for the regulatory requirements that apply during startup, shutdown, or hot standby for fluid catalytic cracking units (FCCU) and startup and shutdown for sulfur recovery units (SRU) constructed or reconstructed on or before June 30, 2014. Finally, this action finalizes technical corrections and clarifications to the NESHAP and the New Source Performance Standards (NSPS) for Petroleum Refineries. These amendments are being finalized in response to new information submitted after these regulatory requirements were promulgated as part of the residual risk and technology review (RTR) rulemaking, which was published on December 1, 2015. This action will have an insignificant effect on emissions reductions and costs.

DATES: This final rule is effective on July 13, 2016.

ADDRESSES: The Environmental Protection Agency (EPA) has established a docket for this action under Docket ID No. EPA–HQ–OAR–2010–0682. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are

available electronically through *http://www.regulations.gov.*

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SUPPLEMENTARY INFORMATION:

Preamble Acronyms and Abbreviations. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

CAA Clean Air Act
CBI confidential business information
CFR Code of Federal Regulations
COMS continuous opacity monitoring system
CPMS continuous parameter monitoring system
EPA Environmental Protection Agency
ESP electrostatic precipitator
FCCU fluid catalytic cracking unit
HAP hazardous air pollutants
LEL lower explosive limit
NESHAP national emissions standards for hazardous air pollutants
NSPS new source performance standards
NTTAA National Technology Transfer and Advancement Act
OAQPS Office of Air Quality Planning and Standards
OMB Office of Management and Budget
OSHA Occupational Safety and Health Administration
PRA Paperwork Reduction Act
PSM Process Safety Management
QA quality assurance
RFA Regulatory Flexibility Act
RMP Risk Management Plan
RSR Refinery Sector Rule
RTR residual risk and technology review
SRU sulfur recovery unit
TTN Technology Transfer Network
UMRA Unfunded Mandates Reform Act

Organization of This Document. The information in this preamble is organized as follows:

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I. General Information

A. Does this action apply to me?

Regulated Entities. Categories and entities potentially regulated by this action are shown in Table 1 of this preamble.

TABLE 1—INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS FINAL ACTION

NESHAP and source category	NAICS [a] Code
Petroleum Refining Industry	324110

[a] North American Industry Classification System.

Table 1 of this preamble is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by the final action for the source categories listed. To determine whether your facility is affected, you should examine the applicability criteria in the appropriate NESHAP or NSPS. If you have any questions regarding the applicability of any aspect of these NESHAP or NSPS, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this final action will also be available on the Internet through the Technology Transfer Network (TTN) Web site, a forum for information and technology exchange in various areas of air pollution control. Following signature by the EPA Administrator, the EPA will post a copy of this final action at *http://www.epa.gov/ttn/atw/petref.html.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version and key technical documents at this same Web site.

C. Judicial Review and Administrative Reconsideration

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by September 12, 2016. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the CAA further provides that "[o]nly an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review." This section also provides a mechanism for the EPA to reconsider the rule "[i]f the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule." Any person seeking to make such a demonstration should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, EPA WJC North Building, 1200 Pennsylvania Ave. NW., Washington, DC 20460, with a copy to the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

II. Background Information

The EPA promulgated NESHAP pursuant to the CAA sections 112(d)(2) and (3) for petroleum refineries located at major sources in three separate rules. These standards are also referred to as maximum achievable control technology (MACT) standards. The first rule was promulgated on August 18, 1995, in 40 CFR part 63, subpart CC (also referred to as Refinery MACT 1) and regulates miscellaneous process vents, storage vessels, wastewater,

equipment leaks, gasoline loading racks, marine tank vessel loading, and heat exchange systems. The second rule was promulgated on April 11, 2002, in 40 CFR part 63, subpart UUU (also referred to as Refinery MACT 2) and regulates process vents on catalytic cracking units (CCU, including FCCU), catalytic reforming units, and SRU. Finally, on October 28, 2009, the EPA promulgated amendments to Refinery MACT 1 to include MACT standards for heat exchange systems, which were not originally addressed in Refinery MACT 1. This same rulemaking included updating cross-references to the General Provisions in 40 CFR part 63.

The EPA completed an RTR of Refinery MACT 1 and 2, publishing proposed amendments on June 30, 2014. These proposed amendments also included technical corrections and clarifications raised in a 2008 industry petition for reconsideration of NSPS for Petroleum Refineries (40 CFR part 60, subpart Ja). After seeking, receiving and addressing public comments, the EPA published final amendments on December 1, 2015.

The December 1, 2015, final amendments included requirements in Refinery MACT 1 for process vents designated as "maintenance vents." Maintenance vents are those whose use is needed only during startup, shutdown, maintenance or inspection of equipment where the equipment is emptied, depressurized, degassed or placed into service. The December 1, 2015, final amendments require that the hydrocarbon content of the vapor in the equipment served by the maintenance vent to be less than or equal to 10 percent of the lower explosive limit (LEL) prior to venting to the atmosphere. The December 1, 2015, final rule also provides specific allowances for situations when the 10 percent LEL cannot be demonstrated or is technically infeasible. After promulgation of the rule, we learned that there was confusion regarding the interpretation of the dates provided in Table 11 of 40 CFR part 63, subpart CC. We intended the compliance date for maintenance vents located at sources constructed on or before June 30, 2014, to be the next qualifying maintenance activity occurring after February 1, 2016 (the effective date of the December 1, 2015, final amendments).

Additionally, the December 1, 2015, final amendments included alternative standards for startup and shutdown events for FCCU and SRU in Refinery MACT 2. For FCCU, the final amendments included two options for demonstrating compliance with the particulate matter (PM) limit (as a surrogate for metal hazardous air pollutants [HAP]) during periods of startup, shutdown, or hot standby in § 63.1564(a)(5). These options are: Meeting the emission limit(s) that apply during normal operations or meeting a minimum cyclone face velocity limit. Similarly, two options were provided for demonstrating compliance with the carbon monoxide (CO) limit for FCCU (as a surrogate for organic HAP) during periods of startup and shutdown in § 63.1565(a)(5). These options include: Meeting the emission limit(s) that apply during normal operations or meeting an excess oxygen limit in the exhaust from the catalyst regenerator. For SRU, three compliance options were provided to demonstrate compliance during periods of startup and shutdown in § 63.1568(a)(4). These are: Meeting the emission limit(s) that apply during normal operations, sending purge gases to a flare that meets certain operating requirements, or sending purge gases to a thermal oxidizer or incinerator that meets specific temperature and excess oxygen requirements. For owners or operators electing to comply with the alternative limits for startup, shutdown, or hot standby for FCCU (*e.g.*, minimum cyclone face velocity option for PM; excess oxygen limit for the catalyst regenerator exhaust for CO) or for startup or shutdown for SRU (*e.g.*, sending purge gases to a thermal oxidizer or incinerator meeting temperature and excess oxygen requirements), the compliance date established in the final amendments was February 1, 2016 (the effective date of the December 1, 2015, RTR final amendments).

Since the promulgation of the December 1, 2015, final amendments, the EPA received new information that the compliance dates for the maintenance vents and alternative startup/shutdown standards for FCCU and SRU pose safety concerns. This information indicated that the compliance dates do not allow sufficient time to complete the management of change process including evaluating the change, forming an internal team to accomplish the change, engineering the change which could include developing new set points, installing new controls or alarms, conducting risk assessments, updating associated plans and procedures, providing training, performing pre-startup safety reviews, and implementing the change as required by other regulatory programs. Further, the information indicated that in some cases refinery owners or operators may need to install additional control equipment to meet the new requirements. On January 19, 2016, the EPA received a petition for reconsideration from the American Petroleum Institute (API) and the American Fuel and Petrochemical Manufacturers (AFPM) formally requesting that EPA reconsider these issues.

On February 9, 2016, the EPA published proposed revisions to the December 1, 2015, final amendments. Specifically, the proposal included a revision to the compliance date in 40 CFR part 63 subpart CC for the requirements for maintenance vents which apply during periods of startup, shutdown, maintenance or inspection for sources constructed or reconstructed on or before June 30, 2014. The proposal also included a revision to the compliance dates in 40 CFR part 63 subpart UUU for the use of the alternative standards for FCCU and SRU which apply during startup and shutdown and for FCCU during hot standby for sources constructed or reconstructed on or before June 30, 2014. Finally, the proposed rule provided technical corrections and clarifications to the NESHAP and NSPS Ja.

The proposal provided a 45-day comment period ending on March 25, 2016. The EPA received comments on the proposed revisions from refiners, trade associations, a state environmental and health department, environmental groups, and private citizens. This final rule provides a discussion of the final revisions, including changes in response to comments on the February 9, 2016, proposal, as well as a summary of the significant comments received and responses. This action fully responds to the January 19, 2016, petition for reconsideration submitted by API and AFPM.

III. Final Revisions to Compliance Dates and Technical Corrections in the NSPS and NESHAP for Petroleum Refineries and Revisions on the February 9, 2016, Proposal

In the February 9, 2016 proposal, we proposed to require owners and operators of sources that were constructed or reconstructed on or before June 30, 2014, to comply with the requirements for maintenance vents during startup, shutdown, maintenance and inspection; the requirements for FCCU during startup, shutdown and hot standby; and the requirements for SRU during startup and shutdown no later than 18 months after the effective date of the December 1, 2015, rule (*i.e.*, no later than August 1, 2017). We are finalizing these amendments as proposed.

We also proposed to make clarifying revisions to Table 11 in 40 CFR part 63, subpart CC to more clearly delineate the compliance dates for the various provisions in subpart CC and to reflect the compliance date proposed for the maintenance vent provisions. We are finalizing these amendments as proposed with minor clarifications. Relative to the amendments made to Table 11 in subpart CC, we received a comment that the compliance dates for storage vessels in the proposed revisions to Table 11 do not reflect the use of the overlap provisions in § 63.640(n). The overlap provisions in § 63.640(n) allow Group 1 and 2 storage vessels to comply with other regulations (*e.g.,* 40 CFR part 60, subpart Kb) as a means of demonstrating compliance with the standards in Refinery MACT 1. Compliance with the overlap provisions is in lieu of complying with the storage vessel provisions in Refinery MACT 1. We acknowledge that Table 11 does not directly reference the overlap provisions included in § 63.640(n). We are clarifying in Table 11 that owners or operators of affected storage vessels must transition to comply with the provisions in § 63.660 ". . . or, if applicable, § 63.640(n) . . ." on or before April 29, 2016.

We also proposed a number of technical and clarifying revisions to other portions of the regulations. These amendments are listed below and are being finalized as proposed with minor revision as noted in Items 3 and 9. Finally, we are making two additional revisions, as described following the numbered paragraphs below. One change is to correct an error we identified and the other is in response to a comment we received during the comment period.

1. Revising the first sentence in § 60.102a(f)(1)(i) to incorporate the pollutant of concern, sulfur dioxide (SO_2), directly into the regulatory text rather than inside a parenthesis within the sentence;

2. Making a grammatical correction to the closed blowdown system definition in § 63.641 by adding an "a" before the phrase, ". . . process vessel to a control device or back into the process.";

3. Replacing the term "relief valve" and "valve" with "pressure relief device" and "device" in the force majeure event definition in §§ 63.641 and 63.670(o)(1)(ii)(B), respectively. We received a comment that the term "valve" should be replaced with the term "device" in § 63.670(o)(1)(vi) for consistency and are finalizing this change;

4. Expanding the list of exceptions for equipment leak requirements in § 63.648(a) to ensure that the intent of the rulemaking is clear, that pressure relief devices subject to the requirements in either 40 CFR part 60, subpart VV or part 63, subpart H and the requirements in 40 CFR part 63, subpart CC are to comply with the requirements in § 63.648(j)(1) and (2), instead of the pressure relief device requirements in 40 CFR part 60, subpart VV and 40 CFR part 63, subpart H;

5. Editing the reporting and recordkeeping requirements related to fenceline monitoring contained in § 63.655(h)(8) to provide clarity that compliance reports are due 45 days after the end of each reporting period. The term "periodic" in the context of the report for fenceline monitoring has been removed to avoid confusion concerning the due dates of other periodic reports contained in 40 CFR part 63, subpart CC such as those specified in § 63.655(g);

6. Editing the siting requirements for passive monitors near known sources of volatile organic compounds (VOC) contained in § 63.658(c)(1) to clarify that a monitor should be placed on the shoreline adjacent to the dock for marine vessel loading operations by removing the phrase "that are located offshore";

7. Revising the catalytic reforming unit (CRU) pressure limit exclusion provision in 40 CFR 63.1566(a)(4) to specify that refiners have 3 years to comply with the requirements to meet emission limitations in Tables 15 and 16 if they actively purge or depressurize at vessel pressures of 5 pounds per square inch gage (psig) or less;

8. Revising the entry for item 1 in Table 2 of 40 CFR part 63, subpart UUU to clarify that refineries have 18 months to comply with the 20-percent opacity operating limit for units subject to Refinery NSPS subpart J or units electing to comply with Refinery NSPS subpart J provisions;

9. Removing the reference to § 60.102a(b)(1) in § 63.1564(a)(1)(iv). Additionally, in response to a comment, we are removing the phrase "of this Chapter" from this same provision for consistency.

10. Making a typographical correction to the reference to § 63.1566(a)(5)(iii) in 40 CFR part 63, subpart UUU, Table 3, Item 12 to correctly reference § 63.1564(a)(5)(ii); and

11. Making an editorial correction to add the word "and" in place of a semicolon in 40 CFR part 63, subpart UUU, Table 5, Item 2.

In reviewing the rule requirements, we noted that the last sentence of the introductory paragraph in § 63.1564(a)(1) refers to ". . . the four options in paragraphs (a)(1)(i) through (vi) of this section." There are six options in these paragraphs, and thus we are finalizing an amendment to revise § 63.1564(a)(1) to accurately describe these paragraphs by replacing the word "four" with "six."

As discussed in more detail in Section IV of this preamble, in response to a comment, we are finalizing an amendment to item (5) in the definition of miscellaneous process vent to clarify that in situ sampling systems will be excluded from the definition until February 1, 2016. After this date, these sampling systems will be considered miscellaneous process vents. Systems which are determined to be Group 1 miscellaneous process vents will need to comply with applicable provisions no later January 30, 2019.

IV. Summary of Comments and Responses

This section summarizes substantive comments received on the February 2016 proposal. We received some comments suggesting rule revisions for requirements in the December 2015 rule for which we did not propose a revision in the February 2016 proposal. These comments were not specifically summarized or addressed because they are beyond the scope of the amendments and we did not open those provisions for public comment. The Agency may elect to consider the issues raised by those comments in the context of a future rulemaking action.

A. Compliance Date Amendments

Comment 1: Two commenters expressed support for the proposal to revise the compliance dates for the maintenance vent provisions during periods of startup, shutdown, maintenance and inspection in 40 CFR part 63, subpart CC, for the alternative standards for startup, shutdown and hot standby for FCCU in 40 CFR part 63, subpart UUU and the alternative standards for startup and shutdown for SRU in subpart UUU. These commenters agreed that additional time is needed to install controls and/or comply with management of change requirements in applicable process safety management (PSM) and risk management program (RMP) requirements. Commenters asserted that refineries need this time to fully perform applicability determinations, complete the procurement process to acquire consultant services to assist with these applicability determinations, modify internal procedures, perform training and implement control/equipment/operational changes as needed.

One commenter further explained that they also interpreted statements in the December 1, 2015, preamble to the final rule (80 FR at 75186) as EPA's intent to provide 18 months for compliance with the provisions in §§ 63.1564 and 63.1565 including the associated monitoring, recordkeeping and reporting requirements. The commenter points out that the regulatory provisions in 63.1564 (a)(2) and in Table 2 of subpart UUU do not reflect this intent and that these provisions should be revised to reflect an August 1, 2017, compliance date. The commenter specifically requested that EPA clarify the regulatory language to provide an August 2017 compliance date for monitoring requirements for FCCU controls, such as bag leak detectors, total power and the secondary current operating limits for electrostatic precipitators (ESP), and daily checks of the air or water pressure to the spray nozzles on jet ejector-type wet scrubbers or other types of wet scrubbers equipped with atomizing spray nozzles.

The commenter further explained that pursuant to § 63.1572(c)(1)–(5), the compliance time for continuous parameter monitoring systems (CPMS) specifications in Table 41, when coupled with the revisions to monitoring requirements contained in § 63.1572(d), is inadequate (the commenter believes these requirements are effective within 60 days of the effective date of the Refinery Sector Rule) given that refineries would have to perform an assessment of each CPMS as well an assessment of potential equipment and operational changes.

Response 1: We appreciate the support for the proposed revisions. We disagree, however, with the comment indicating a belief that we also intended to provide 18 months for refineries to comply with the FCCU provisions in §§ 63.1564 and 63.1565, including the associated monitoring, recordkeeping and reporting requirements.

Sections 63.1564 and 63.1565 refer to NSPS Ja requirements, which are not new requirements for some sources pursuant to the December 2015 final amendments. In the preamble to the December 2015 final amendments, we stated (80 FR 75186): "As proposed, we are providing 18 months after the effective date of the final rule to conduct required performance tests and comply with any *revised* [emphasis added] operating limits for FCCU." We did not consider the pre-existing NSPS requirements referred to in §§ 63.1564 and 63.1565 to be "revised operating limits" for sources subject to NSPS Ja. We note that an 18-month compliance period for these NSPS Ja requirements is not supported because the proposed and final MACT operating limits are identical to the NSPS Ja operating limits which already apply to these affected sources. For refinery sources subject to the December 2015 final amendments and that are non-NSPS Ja sources, Tables 1 through 14 to 40 CFR part 63, subpart UUU clearly provide an 18-month compliance period for refineries to transition from the existing requirements to the revised operating limits.

With regard to the revised FCCU monitoring requirements in § 63.1572(d), as discussed in the Response to Comment document for the December 1, 2015, final rule (Docket Item No. EPA–HQ–OAR–2010–0682–0802), we amended the alternative monitoring approach to require daily inspections of the air or water supply lines with the understanding that no new monitoring equipment is needed to complete these inspections. Therefore, we proposed and then finalized these alternative requirements to apply immediately on the effective date of the rule.

With regard to the compliance time for CPMS, the commenter is mistaken that the regulations provide a 60-day compliance period. Section 63.1572(c)(1) provides an 18-month transition period to the new CPMS quality assurance (QA) requirements in Table 41. When establishing this compliance date, we estimated that the time to perform these evaluations, request vendor quotes, if necessary to upgrade or replace existing monitors, and install the new/upgraded equipment would require about 12 to 18 months. Thus, in the promulgating the final rule, the Agency considered the types of concerns raised by the commenter and provided an 18-month transition period.

We note that pursuant to the provisions in § 63.6(i), which are generally applicable, refinery owners or operators may seek compliance extensions on a case-by-case basis if necessary.

Comment 2: One commenter stated that by extending the compliance dates for the provisions addressed in the proposal, the EPA has extended the amount of time for illegal exemptions for periods of startup, shutdown and malfunction. The commenter also asserted that substituting the general duty requirements as the continuous emissions limit during the period between the promulgation and effective date is not consistent with the CAA as it requires that section 112 standards apply at all times, and general duty requirements do not meet the requirements of CAA section 112.

The commenter also maintained that the CAA requires that air toxics standards should be effective upon promulgation, and provides that existing sources should comply as expeditiously as practicable. The commenter argued that the EPA has not demonstrated in the record how 18 months is as "expeditiously as practicable," and therefore the extension of the compliance period is arbitrary and unlawful. The commenter continued that the reasons given for the extension were in part based on a potential need to install controls, but the EPA did not provide an independent analysis demonstrating that there is an actual need for new controls. Further, the commenter asserted that this scenario could be addressed on a case-by-case basis by the provisions in § 63.6(i) rather than as a blanket exemption for all sources. The commenter also stated that the other reason given for the extension, compliance with the RMP and the Occupational Safety and Health Administration's (OSHA) PSM, does not justify an extension for compliance with the air toxics program. The commenter also stated that the timing for removing these SSM exemptions has been delayed for approximately 8 years (since the 2008 *Sierra Club* ruling) due to rulemaking processes and delays, and that further delay is unwarranted.

Finally, the commenter stated that the EPA did not provide emissions data to support their statements in the preamble that the emission impacts from extending the compliance deadlines will have "an insignificant effect on emissions reductions."

Response 2: We share the commenter's desire to implement the new Refinery Sector Rule provisions as quickly as possible. However, we have determined that it is infeasible to immediately comply with certain provisions of the December 1, 2015, final rule, and it is, therefore, necessary to provide the additional compliance time. Based on the information that we now have, we concluded that facilities require additional time to comply with certain provisions in the final rule in order to allow facilities to install the appropriate monitoring equipment, change procedures, and, if necessary, add or modify emission control equipment.

We disagree with the commenters that we substituted the general duty requirement for the requirements for which we are establishing an 18-month compliance period. Rather, we discussed the general duty provision to

emphasize that although compliance with the relevant amendments would be delayed for a period of time, these sources remain obligated to comply with good air pollution control practices as specified in the general duty requirements. We were not suggesting that the "general duty" requirement is sufficient to meet CAA section 112 for the regulated sources at issue in this rule.

We disagree with the commenter that the compliance period is not supported and is therefore arbitrary. The process equipment associated with maintenance vents, FCCU and SRU, are subject to the requirements of the RMP regulation in 40 CFR part 68 and the OSHA PSM standard in 29 CFR part 1910. Therefore, any operational or procedural changes resulting from meeting the applicable standards must follow the management of change procedures in the respective regulatory programs, as codified in § 68.75 and § 1910.119(l). As part of the management of change process, the EPA expects that facilities will have to perform an upfront assessment to determine what changes are required to meet the maintenance vent requirements and alternative standards for FCCU and SRU during periods of startup and shutdown. Based on the new information we received after these regulatory requirements were promulgated, we anticipate that refinery owners or operators will have to adjust or install new instrumentation including alarms, closed drain headers, equipment blowdown drums, and other new or revised equipment and controls in order to comply with the new startup and shutdown provisions. Where these types of projects are necessary, it is likely facilities will have to hire a contractor to assist with the project and complete the procurement process. Additionally, we expect that facilities will have to perform risk assessments and review and revise standard operating procedures, as necessary. Further, the management of change provisions also require that employees who are involved in operating a process, and maintenance and contract employees whose job tasks are affected by the change, must be trained prior to start up of the affected process. Finally, facilities are required to conduct pre-startup safety reviews and obtain authorization to fully implement and startup the modified process and/or equipment.

We disagree that compliance obligations with EPA's RMP and OSHA's PSM cannot be considered in determining the appropriate compliance period to the extent those obligations can be met consistent with the compliance period mandated by CAA section 112. In the present case, the compliance period of 18 months is well within the maximum 3-year compliance period allowed by CAA section 112(i). When considering an appropriate compliance timeframe, it is important to consider the time it takes to safely transition to new operating procedures. If an explosion or fire occurs due to inadequate planning and evaluation of new procedures, the amount of toxics released to the atmosphere could dwarf the emission reductions anticipated from the new startup and shutdown requirements. Such an event could cause harm to refinery personnel and unnecessarily expose the neighboring community to releases of toxic emissions. Therefore, we believe it is reasonable to consider other applicable regulatory compliance obligations for these programs when establishing compliance dates for CAA section 112 requirements.

While we understand the commenter's concerns that the regulatory changes did not occur as quickly as they would have hoped, we cannot ignore feasibility and compliance with health and safety requirements, as discussed above, in determining an appropriate compliance timeframe. The "delay" in establishing these requirements does not somehow make it technically feasible to immediately comply with these new standards. Even with the 18-month timeframe being finalized today, sources must still begin the planning and evaluation process immediately to meet the compliance date.

We agree with the commenters that another statutory mechanism for addressing compliance issues such as the ones addressed here would be to rely on facility-specific requests pursuant to § 63.6(i). However, when a significant number of extension requests are anticipated, we consider it reasonable and more efficient to provide the additional compliance time within the rule. Providing the compliance time in the rule reduces both industry and Agency burden associated with developing and evaluating waivers on a case-by-case basis. It also reduces the uncertainty that facilities face when a regulatory compliance date is approaching and a request for an extension has not yet been addressed by the Agency. Moreover, in the current case, the compliance period established in the December 1, 2015 rule was only a few months after the publication of the rule and that time period was generally not sufficient for a case-by-case extension process.

We believe that the later compliance date will have an insignificant effect on a refinery's overall emissions. The maintenance vent provisions apply only to vent emissions associated with taking equipment out of service for maintenance or repair. While there may be a number of pieces of equipment taken out of service over a given year, many facility owners or operators already have standard procedures for de-inventorying equipment. While these procedures may not specifically meet the final rule requirements (for example, they may depressure to atmosphere once the vessel is below 5 psig, but may not measure the lower explosive limit even though it could be monitored), the general equipment de-inventory procedures will typically limit emissions to the atmosphere. For the startup and shutdown operating limit alternatives for FCCU and SRU, these equipment may be shut down only once every 2 to 5 years. Therefore, we expect very few of these events to occur during the revised compliance period so there are limited opportunities for these emissions and limited opportunities for emissions reductions. We note that when we finalized the FCCU requirements, we did not project any emissions reductions associated with these requirements. This is partly due to the limited frequency of occurrence and partly due to uncertainties in the existing practices used by facilities to reduce these emissions. While we developed these requirements to ensure these sources had emission limitations that applied at all times, the decision was not based on a quantitative estimate of the emission reduction that would be achieved by these requirements. In general, we believe the emissions from these emission points to be relatively small compared to the refinery's total HAP emissions so that the emissions reduction achieved by the new requirements would be small. Therefore, we expect that the modification to the compliance dates in this final rule will not significantly impact a refinery's emissions.

Comment 3: One commenter stated that the references in the proposed rule to the procedures for requesting compliance extensions through § 63.6(i) are problematic for state regulators and industry. Facilities that have to install new controls or otherwise invest in capital projects in order to comply with the new maintenance vent requirements or alternative standards for FCCU and SRU may not have ample time to submit such requests. Instead of requiring compliance by August 2017, the commenter suggested that the EPA

finalize a compliance date 6 months after promulgation of the final rule. This would allow sources an opportunity to use the provisions in § 63.6(i) as determined appropriate on a case-by-case basis by the delegated authority. Finally, the commenter suggested that, in the future, the EPA should promulgate standards with compliance dates at least 120 days after promulgation and that the EPA should issue a stay of the requirements if similar situations requiring compliance date extensions should arise.

Response 3: As explained in the previous response, a compliance date of August 1, 2017, is consistent with CAA section 112(i)(3). And, because numerous facilities will likely need additional time beyond the current compliance date, it is reasonable to rely on that provision instead of setting a shorter compliance period and relying on the case-by-case extension provisions of CAA section 112 and § 63.6(i). Furthermore, for the reasons provided in the previous response, we do not believe that a 6-month compliance period as requested by this commenter reflects the actual time it will take for most facilities to comply with these provisions. The request that we provide a minimum of 120 days for compliance in future rulemakings goes beyond the scope of this rulemaking. Compliance periods for future regulations will be addressed in the context of the relevant proposed and final rules.

Comment 4: One commenter requested that an 18-month extension to the compliance date be provided to allow for compliance with the general duty requirements for maintenance vents. The commenter stated that prior to the December 1, 2015 final amendments, designated maintenance vents were not considered "affected facilities," and, therefore, were not subject to the general duty provisions. The commenter argued that facilities will need to perform applicability determinations for vents on refinery processes, update procedures, perform training, and go through the OSHA management of change process to assess the implications of the general duty clause on applicable vents, and thus sources need time to do so.

Response 4: We did not propose any change to the general duty requirement for "maintenance vents." Rather, we proposed a revision to the compliance date for startup, shutdown, maintenance and inspection for maintenance vents. Although we noted that the general duty provision applies prior to the proposed revised compliance date, we did not propose to modify the compliance obligation for meeting the general duty requirement. Therefore, we believe that this comment goes beyond the scope of this rulemaking. However, we note that we consider it standard practice for any operating facility to use good air pollution control practices regardless of the emission source and whether or not that source is specifically regulated by the MACT standard; thus, additional time to meet such a requirement would not be warranted.

Comment 5: One commenter stated that the EPA should extend the compliance dates for the monitoring requirements for bypass lines of miscellaneous process vents in § 63.644(c). The commenter asserted that the February 1, 2016 API/AFPM supplemental petition provides a list of reasons why such an extension is needed and that EPA could rely on the same justification as that for the compliance date extension being granted for the startup, shutdown, maintenance and inspection requirements for maintenance vents in § 63.643(c). The commenter noted that the API/AFPM petition explains that items previously excluded from the monitoring requirements in § 63.644(c), such as high point bleeds, analyzer vents, open-ended valves or lines, and pressure relief valves are no longer excluded under the December 2015 final rule, and, thus, would now be required to install flow indicators or employ car-seal or lock-and-key type valves. The API/AFPM petition also explains that since onstream analyzer vents (in situ sampling systems) are excluded from the definition of miscellaneous process vents through January 30, 2019, but not specifically excluded from the bypass line monitoring provisions, some local agencies may interpret that the bypass line provisions apply to analyzer vents and would require analyzer vents to be in compliance during the additional period between the February 1, 2016, effective date of the rule and January 30, 2019.

Response 5: As part of the December 1, 2015, final rule, the EPA removed provisions from § 63.644(c) that excluded high point bleeds, analyzer vents, open-ended valves or lines, and pressure relief valves from the bypass line provisions in § 63.644(c)(1) and (2). Low leg drains and equipment subject to § 63.648 continue to be excluded from the bypass line provisions in § 63.644(c). Because open-ended valves or lines and pressure relief valves (devices) are equipment subject to § 63.648, they remain subject to the bypass line exclusion. In addition, high point bleeds are open-ended valves or lines and would also be equipment subject to § 63.648, and thus, subject to the bypass line exclusion.

We removed analyzer vents from the list of items excluded from the bypass line provisions because we consider analyzer vents to be miscellaneous process vents consistent with our amendments to item (5) in the list of exclusions from the definition of miscellaneous process vents in § 63.641. We recognize that based on the wording of item (5), some may interpret that, prior to January 30, 2019, these analyzer vents could be construed to be bypass lines. This is not our intent. We consider analyzer vents to be miscellaneous process vents as they routinely or continuously vent gases to the atmosphere. We included the January 30, 2019, date to establish the date at which these analyzer vents must comply with the miscellaneous process vent standards.

It was not our intent that analyzer vents would be considered bypass lines between the February 1, 2016, effective date of the rule and the January 30, 2019, compliance date provided in item (5) of the list of exclusions from the definition of miscellaneous process vents. While we consider it unlikely that local agencies would interpret the Refinery final amendments to require bypass line monitoring for analyzer vents, we understand the commenter's concern. To clarify these requirements consistent with our original intent, we are amending item (5) in the definition of miscellaneous process vent to exclude "In situ sampling systems (onstream analyzers)" until February 1, 2016. After this date, these sampling systems will be included in the definition of miscellaneous process vents and sampling systems determined to be Group 1 miscellaneous process vents must comply with the requirements in §§ 63.643 and 63.644 no later than January 30, 2019.

Comment 6: One commenter requested that EPA provide an 18-month compliance period, rather than the 150 days provided, for existing storage tanks to transition from complying with the requirements in § 63.646 to the storage vessel requirements in § 63.660, which were established in the December 2015 final rule. The storage vessel provisions in § 63.660 require that new or existing Group 1 storage vessels comply with the requirements in subpart WW or subpart SS of 40 CFR part 63. The commenter stated that sources will need time to assess whether their existing storage tanks meet the "Group 1 Storage Tank" definition finalized in § 63.641 as part of the RTR rulemaking, and, if so, to assess whether existing controls will need to

be updated to meet the subpart WW requirements contained in § 63.660. Should such control upgrades be required, the commenter asserted that additional time will be needed to design and install the equipment, complete management of change process and provide operator training. The commenter also stated that subpart WW imposes additional inspection and recordkeeping requirements which will require additional time for further operator training. A second commenter provided similar comments, stating that inadequate time had been given to assess applicability and upgrade tank controls (if needed) for existing Group 1 storage vessels. Finally, a comment was received stating that Table 11 appears to require compliance with § 63.660 and is in conflict with the overlap provisions in § 63.640(n). The overlap provisions in § 63.640(n) allow Group 1 and 2 storage vessels to comply with other regulations (*e.g.*, 40 CFR part 60, subpart Kb) as a means of demonstrating compliance with the standards in Refinery MACT 1. Compliance with the overlap provisions is made in lieu of complying with the storage vessel provisions in § 63.660 of Refinery MACT 1.

Response 6: While Table 11 was completely re-printed in the proposed amendments, we did not propose to revise the compliance dates for storage vessels or to address storage vessels in any way as part of the proposed rule; thus, this comment is considered out of scope. We note that this small population of tanks was specifically provided additional time to install the required controls as specified in § 63.660(d) and the commenters did not provide specific information on why additional time is required. Section 63.6(i) provides a mechanism to request additional time for the limited number of tanks within this small population of tanks that may need additional time.

With respect to the comment that subpart WW imposes additional inspection and recordkeeping requirements, the required inspections are infrequent (generally once a year to once every 5 or 10 years) and we disagree that existing compliance provisions do not provide sufficient time for owners or operators to "upgrade," if necessary, their inspection procedures.

We agree with the commenter that Table 11 does appear to require all storage vessels to transition to comply with § 63.660 in conflict with the overlap provisions in § 63.640(n), which allow compliance with 40 CFR part 60, subpart Kb as a means to comply with the amended Refinery MACT 1 storage vessel requirements. Therefore, we are revising the relevant language in Table 11 to clarify that owners or operators of affected storage vessels must transition to comply with the provisions in § 63.660 ". . . or, if applicable, § 63.640(n) . . ." on or before April 29, 2016.

B. Technical and Editorial Corrections

Comment 1: One commenter questioned the revisions to Items (4)(i) and (4)(ii) in Table 11 of 40 CFR part 63, subpart CC as they apply to existing sources constructed or reconstructed before July 14, 1994. For such sources, the commenter stated that these revisions appear to retroactively impose compliance dates of August 18, 1998, for paragraphs that were added or amended after August 18, 1998. The commenter provided examples of the references to requirements in § 63.648(j)(1) and (2) and § 63.644 which should have an effective date of February 1, 2016. The commenter further stated that Table 11 is not all inclusive and omits many compliance dates of sections in subpart CC, including those revised during the amendment process and provided examples. The commenter asserted that these omissions make the table incomplete and contribute to overall confusion, and, therefore, requested that the table be deleted and compliance dates be incorporated directly into the regulatory text.

Response 1: The commenter is mistaken that § 63.648(j)(1) and (2) are new requirements. In the December 2015 final rule, EPA incorporated requirements from 60.482–4 of 40 CFR part 60, subpart VV (which was previously referenced in 63.648(a) of 40 CFR part 63, subpart CC) directly into § 63.648(j)(1) and (2). Section 63.644 was amended and these final revisions provide additional clarification on the compliance date for analyzer vents, as described in Response No. 5. Therefore, Table 11 neither changed the requirement nor changed the applicable compliance date.

Table 11 is not intended to reflect every requirement and compliance date. Rather, for requirements not identified in Table 11, as in those cited by the commenter, the compliance date is the effective date of the rule, February 1, 2016, or is specified in the appropriate section.

Comment 2: One commenter requested that the use of the term "pressure relief device" or "device" be used in § 63.670(o)(1)(vi), similar to the edits proposed in § 63.641 and § 63.670(o)(1)(ii)(B). The commenter also requested that the EPA provide a definition of the term "pressure relief device" in § 63.641.

Response 2: We agree that § 63.670(o)(1)(vi) should use the term "pressure relief device" consistent with the edits proposed to § 63.641 and § 63.670(o)(1)(ii)(B), and we are amending this paragraph as suggested.

The request that EPA add a definition of "pressure relief device" is outside the scope of the current rulemaking.

Comment 3: One commenter requested that the proposed revision to § 63.1564(a)(1)(iv) also remove the words "of this chapter" for consistency with other options referencing subpart UUU alternatives.

Response 3: We agree with the commenter that the phrase "of this chapter" should be removed. This referred to the reference to § 60.102a(b)(1), which we proposed to remove and are removing in this final rule. In reviewing this comment, we also noted that the last sentence of the introductory paragraph in § 63.1564(a)(1) refers to ". . . the four options in paragraphs (a)(1)(i) through (vi) of this section." To address this clerical error, we are also revising the last sentence in § 63.1564(a)(1) to replace the word "four" with the word "six."

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www2.epa.gov/laws-regulations//laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations at 40 CFR part 63, subparts CC and UUU and has assigned OMB control numbers 2060–0340 and 2060–0554. The finalized amendments are revisions to compliance dates, clarifications, and technical corrections that do not affect the estimated burden of the existing rule. Therefore, we have not revised the information collection request for the existing rule.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden, or otherwise has a positive economic effect on the small entities subject to the rule. The action consists of revisions to compliance dates, clarifications, and technical corrections which do not change the expected economic impact analysis performed for the existing rule. We have, therefore, concluded that this action will have no net regulatory burden for all directly regulated small entities.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. It will not have substantial direct effect on tribal governments, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The final amendments serve to revise compliance dates and make technical clarifications and corrections. We expect the additional compliance time will have an insignificant effect on emission reductions as many refiners already have measures in place due to state and other federal requirements to minimize emissions during these periods. Further, these periods are relatively infrequent and are usually of short duration. Therefore, these amendments should not appreciably increase risk for any populations. Further, this action will allow more time for refiners to implement procedures to safely start up and shut down equipment which should minimize safety risks for all populations.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The finalized amendments serve to revise compliance dates and make technical clarifications and corrections. We expect the additional compliance time will have an insignificant effect on emission reductions as many refiners already have measures in place due to state and other federal requirements to minimize emissions during these periods. Further, these periods are relatively infrequent and are usually of short duration. Therefore, the finalized amendments should not appreciably increase risk for any populations. Further, this action will allow more time for refiners to implement procedures to safely start up and shut down equipment which should minimize safety risks for all populations.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of Congress and to the Comptroller General of the United States. This is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 60

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: July 1, 2016.

Gina McCarthy,

Administrator.

For the reasons set forth in the preamble, EPA amends 40 CFR parts 60 and 63 as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

■ 1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart Ja—Standards of Performance for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007

■ 2. Section 60.102a is amended by revising the first sentence of paragraph (f)(1)(i) to read as follows:

§ 60.102a Emissions limitations.

* * * * *

(f) * * *

(1) * * *

(i) For a sulfur recovery plant with an oxidation control system or a reduction control system followed by incineration, the owner or operator shall not discharge or cause the discharge of any gases containing SO_2 into the atmosphere in excess of the emission limit calculated using Equation 1 of this section. * * *

* * * * *

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

■ 3. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart CC—National Emission Standards for Hazardous Air Pollutants From Petroleum Refineries

■ 4. Section 63.641 is amended by revising the definitions of "Closed blowdown system", "Force majeure event" and paragraph (5) of the definition "Miscellaneous process vent" to read as follows:

§ 63.641 Definitions.

* * * * *

Closed blowdown system means a system used for depressuring process vessels that is not open to the atmosphere and is configured of piping, ductwork, connections, accumulators/knockout drums, and, if necessary, flow inducing devices that transport gas or vapor from a process vessel to a control device or back into the process.

* * * * *

Force majeure event means a release of HAP, either directly to the atmosphere from a pressure relief device or discharged via a flare, that is demonstrated to the satisfaction of the Administrator to result from an event beyond the refinery owner or operator's control, such as natural disasters; acts of war or terrorism; loss of a utility external to the refinery (*e.g.*, external power curtailment), excluding power curtailment due to an interruptible service agreement; and fire or explosion originating at a near or adjoining facility outside of the refinery that impacts the refinery's ability to operate.

* * * * *

Miscellaneous process vent * * *

(5) In situ sampling systems (onstream analyzers) until February 1, 2016. After this date, these sampling systems will be included in the definition of miscellaneous process vents and sampling systems determined to be Group 1 miscellaneous process vents must comply with the requirements in §§ 63.643 and 63.644 no later than January 30, 2019;

* * * * *

■ 5. Section 63.643 is amended by revising paragraph (c) introductory text and adding paragraph (d) to read as follows:

§ 63.643 Miscellaneous process vent provisions.

* * * * *

(c) An owner or operator may designate a process vent as a maintenance vent if the vent is only used as a result of startup, shutdown, maintenance, or inspection of equipment where equipment is emptied, depressurized, degassed or placed into service. The owner or operator does not need to designate a maintenance vent as a Group 1 or Group 2 miscellaneous process vent. The owner of operator must comply with the applicable requirements in paragraphs (c)(1) through (3) of this section for each maintenance vent according to the compliance dates specified in table 11 of this subpart, unless an extension is requested in accordance with the provisions in § 63.6(i).

* * * * *

(d) After February 1, 2016 and prior to the date of compliance with the maintenance vent provisions in paragraph (c) of this section, the owner or operator must comply with the requirements in § 63.642(n) for each maintenance venting event and maintain records necessary to demonstrate compliance with the requirements in § 63.642(n) including, if appropriate, records of existing standard site procedures used to deinventory equipment for safety purposes.

■ 6. Section 63.648 is amended by revising paragraph (a) introductory text as follows:

§ 63.648 Equipment leak standards.

(a) Each owner or operator of an existing source subject to the provisions of this subpart shall comply with the provisions of 40 CFR part 60, subpart VV, and paragraph (b) of this section except as provided in paragraphs (a)(1) and (2), (c) through (i), and (j)(1) and (2) of this section. Each owner or operator of a new source subject to the provisions of this subpart shall comply with subpart H of this part except as provided in paragraphs (c) through (i) and (j)(1) and (2) of this section.

* * * * *

■ 7. Section 63.655 is amended by revising paragraph (h)(8) introductory text to read as follows:

§ 63.655 Reporting and recordkeeping requirements.

* * * * *

(h) * * *

(8) For fenceline monitoring systems subject to § 63.658, within 45 calendar days after the end of each reporting period, each owner or operator shall submit the following information to the EPA's Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*). The owner or operator need not transmit these data prior to obtaining 12 months of data.

* * * * *

■ 8. Section 63.658 is amended by revising paragraph (c)(1) to read as follows:

§ 63.658 Fenceline monitoring provisions.

* * * * *

(c) * * *

(1) As it pertains to this subpart, known sources of VOCs, as used in Section 8.2.1.3 in Method 325A of appendix A of this part for siting passive monitors, means a wastewater treatment unit, process unit, or any emission source requiring control according to the requirements of this subpart, including marine vessel loading operations. For marine vessel loading operations, one passive monitor should be sited on the shoreline adjacent to the dock.

* * * * *

■ 9. Section 63.670 is amended by revising paragraphs (o)(1)(ii)(B) and (o)(1)(vi) to read as follows:

§ 63.670 Requirements for flare control devices.

* * * * *

(o) * * *

(1) * * *

(ii) * * *

(B) Implementation of prevention measures listed for pressure relief devices in § 63.648(j)(5) for each pressure relief device that can discharge to the flare.

* * * * *

(vi) For each pressure relief device vented to the flare identified in paragraph (o)(1)(iv) of this section, provide a detailed description of each pressure release device, including type of relief device (rupture disc, valve type) diameter of the relief device opening, set pressure of the relief device and listing of the prevention measures implemented. This information may be maintained in an electronic database on-site and does not need to be submitted as part of the flare management plan unless requested to do so by the Administrator.

* * * * *

■ 10. The appendix to subpart CC is amended by revising table 11 to read as follows:

Appendix to Subpart CC of Part 63—Tables

* * * * *

TABLE 11—COMPLIANCE DATES AND REQUIREMENTS

If the construction/ reconstruction date is . . .	Then the owner or operator must comply with . . .	And the owner or operator must achieve compliance . . .	Except as provided in . . .
(1) After June 30, 2014.	(i) Requirements for new sources in §§ 63.643(a) and (b); 63.644, 63.645, and 63.647; 63.648(a) through (i) and (j)(1) and (2); 63.649 through 63.651; and 63.654 through 63.656.	Upon initial startup	§ 63.640(k), (l) and (m).
	(ii) Requirements for new sources in §§ 63.642(n), 63.643(c), 63.648(j)(3), (6) and (7); and 63.657 through 63.660.	Upon initial startup or February 1, 2016, whichever is later.	§ 63.640(k), (l) and (m).
(2) After September 4, 2007 but on or before June 30, 2014.	(i) Requirements for new sources in §§ 63.643(a) and (b); 63.644, 63.645, and 63.647; 63.648(a) through (i) and (j)(1) and (2); and 63.649 through 63.651, 63.655 and 63.656.	Upon initial startup	§ 63.640(k), (l) and (m).
	(ii) Requirements for new sources in § 63.654.	Upon initial startup or October 28, 2009, whichever is later.	§ 63.640(k), (l) and (m).
	(iii) Requirements for new sources in either § 63.646 or § 63.660 or, if applicable, § 63.640(n).	Upon initial startup, but you must transition to comply with only the requirements in § 63.660 or, if applicable, § 63.640(n) on or before April 29, 2016.	§§ 63.640(k), (l) and (m) and 63.660(d).
	(iv) Requirements for existing sources in § 63.643(c).	On or before August 1, 2017	§§ 63.640(k), (l) and (m) and 63.643(d).
	(v) Requirements for existing sources in § 63.658.	On or before January 30, 2018	§ 63.640(k), (l) and (m).
	(vi) Requirements for existing sources in § 63.648 (j)(3), (6) and (7) and § 63.657.	On or before January 30, 2019	§ 63.640(k), (l) and (m).
	(vii) Requirements in § 63.642 (n)	Upon initial startup or February 1, 2016, whichever is later.	
(3) After July 14, 1994 but on or before September 4, 2007.	(i) Requirements for new sources in §§ 63.643(a) and (b); 63.644, 63.645, and 63.647; 63.648(a) through (i) and (j)(1) and (2); and 63.649 through 63.651, 63.655 and 63.656.	Upon initial startup or August 18, 1995, whichever is later.	§ 63.640(k), (l) and (m).
	(ii) Requirements for existing sources in § 63.654.	On or before October 29, 2012	§ 63.640(k), (l) and (m).
	(iii) Requirements for new sources in either § 63.646 or § 63.660 or, if applicable, § 63.640(n).	Upon initial startup, but you must transition to comply with only the requirements in § 63.660 or, if applicable, § 63.640(n) on or before April 29, 2016.	§§ 63.640(k), (l) and (m) and 63.660(d).
	(iv) Requirements for existing sources in § 63.643(c).	On or before August 1, 2017	§§ 63.640(k), (l) and (m) and 63.643(d).
	(v) Requirements for existing sources in § 63.658.	On or before January 30, 2018	§ 63.640(k), (l) and (m).
	(vi) Requirements for existing sources in §§ 63.648(j)(3), (6) and (7) and 63.657.	On or before January 30, 2019	§ 63.640(k), (l) and (m).
	(vii) Requirements in § 63.642(n)	Upon initial startup or February 1, 2016, whichever is later.	
(4) On or before July 14, 1994.	(i) Requirements for existing sources in §§ 63.648(a) through (i) and (j)(1) and (2); and 63.649, 63.655 and 63.656.	(A) On or before August 18, 1998	(*1*) § 63.640(k), (l) and (m). (*2*) § 63.6(c)(5) or unless an extension has been granted by the Administrator as provided in § 63.6(i).
	(ii) Either the requirements for existing sources in §§ 63.643(a) and (b); 63.644, 63.645, 63.647, 63.650 and 63.651; and item (4)(v) of this table. OR The requirements in §§ 63.652 and 63.653.	(A) On or before August 18, 1998	(*1*) § 63.640(k), (l) and (m). (*2*) § 63.6(c)(5) or unless an extension has been granted by the Administrator as provided in § 63.6(i).
	(iii) Requirements for existing sources in either § 63.646 or § 63.660 or, if applicable, § 63.640(n).	On or before August 18, 1998, but you must transition to comply with only the requirements in § 63.660 or, if applicable, § 63.640(n) on or before April 29, 2016.	§§ 63.640(k), (l) and (m) and 63.660(d).

TABLE 11—COMPLIANCE DATES AND REQUIREMENTS—Continued

If the construction/ reconstruction date is . . .	Then the owner or operator must comply with . . .	And the owner or operator must achieve compliance . . .	Except as provided in . . .
	(iv) Requirements for existing sources in § 63.654.	On or before October 29, 2012	§ 63.640(k), (l) and (m).
	(v) Requirements for existing sources in § 63.643(c).	On or before August 1, 2017	§§ 63.640(k), (l) and (m) and 63.643(d).
	(vi) Requirements for existing sources in § 63.658.	On or before January 30, 2018	§ 63.640(k), (l) and (m).
	(vii) Requirements for existing sources in §§ 63.648(j)(3), (6) and (7) and 63.657.	On or before January 30, 2019	§ 63.640(k), (l) and (m).
	(viii) Requirements in § 63.642 (n)	Upon initial startup or February 1, 2016, whichever is later.	

* * * * *

Subpart UUU—National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units

■ 11. Section 63.1563 is amended by:
■ a. Revising paragraphs (a)(1) and (2) and (b);
■ b. Redesignating paragraphs (d) and (e) as paragraphs (e) and (f), respectively;
■ c. Adding new paragraph (d); and
■ d. Revising newly redesignated paragraph (e) introductory text.

The revisions and additions to read as follows:

§ 63.1563 When do I have to comply with this subpart?

(a) * * *

(1) If you startup your affected source before April 11, 2002, then you must comply with the emission limitations and work practice standards for new and reconstructed sources in this subpart no later than April 11, 2002 except as provided in paragraph (d) of this section.

(2) If you startup your affected source after April 11, 2002, you must comply with the emission limitations and work practice standards for new and reconstructed sources in this subpart upon startup of your affected source except as provided in paragraph (d) of this section.

(b) If you have an existing affected source, you must comply with the emission limitations and work practice standards for existing affected sources in this subpart by no later than April 11, 2005 except as specified in paragraphs (c) and (d) of this section.

* * * * *

(d) You must comply with the applicable requirements in §§ 63.1564(a)(5), 63.1565(a)(5) and 63.1568(a)(4) as specified in paragraph (d)(1) or (2) of this section, as applicable.

(1) For sources which commenced construction or reconstruction before June 30, 2014, you must comply with the applicable requirements in §§ 63.1564(a)(5), 63.1565(a)(5) and 63.1568(a)(4) on or before August 1, 2017 unless an extension is requested and approved in accordance with the provisions in § 63.6(i). After February 1, 2016 and prior to the date of compliance with the provisions in §§ 63.1564(a)(5), 63.1565(a)(5) and 63.1568(a)(4), you must comply with the requirements in § 63.1570(c) and (d).

(2) For sources which commenced construction or reconstruction on or after June 30, 2014, you must comply with the applicable requirements in §§ 63.1564(a)(5), 63.1565(a)(5) and 63.1568(a)(4) on or before February 1, 2016 or upon startup, whichever is later.

(e) If you have an area source that increases its emissions or its potential to emit such that it becomes a major source of HAP, the requirements in paragraphs (e)(1) and (2) of this section apply.

* * * * *

■ 12. Section 63.1564 is amended by revising paragraphs (a)(1) introductory text, (a)(1)(iv), (a)(5) introductory text and (c)(5) introductory text to read as follows:

§ 63.1564 What are my requirements for metal HAP emissions from catalytic cracking units?

(a) * * *

(1) Except as provided in paragraph (a)(5) of this section, meet each emission limitation in Table 1 of this subpart that applies to you. If your catalytic cracking unit is subject to the NSPS for PM in § 60.102 of this chapter or is subject to § 60.102a(b)(1) of this chapter, you must meet the emission limitations for NSPS units. If your catalytic cracking unit is not subject to the NSPS for PM, you can choose from the six options in paragraphs (a)(1)(i) through (vi) of this section:

* * * * *

(iv) You can elect to comply with the PM per coke burn-off emission limit (Option 2);

* * * * *

(5) On or before the date specified in § 63.1563(d), you must comply with one of the two options in paragraphs (a)(5)(i) and (ii) of this section during periods of startup, shutdown and hot standby:

* * * * *

(c) * * *

(5) If you elect to comply with the alternative limit in paragraph (a)(5)(ii) of this section during periods of startup, shutdown and hot standby, demonstrate continuous compliance on or before the date specified in § 63.1563(d) by:

* * * * *

■ 13. Section 63.1565 is amended by revising paragraph (a)(5) introductory text to read as follows:

§ 63.1565 What are my requirements for organic HAP emissions from catalytic cracking units?

(a) * * *

(5) On or before the date specified in § 63.1563(d), you must comply with one of the two options in paragraphs (a)(5)(i) and (ii) of this section during periods of startup, shutdown and hot standby:

* * * * *

■ 14. Section 63.1566 is amended by revising paragraph (a)(4) to read as follows:

§ 63.1566 What are my requirements for organic HAP emissions from catalytic reforming units?

(a) * * *

(4) The emission limitations in Tables 15 and 16 of this subpart do not apply to emissions from process vents during passive depressuring when the reactor vent pressure is 5 pounds per square inch gauge (psig) or less or during active depressuring or purging prior to January

30, 2019, when the reactor vent pressure is 5 psig or less. On and after January 30, 2019, the emission limitations in Tables 15 and 16 of this subpart do apply to emissions from process vents during active purging operations (when nitrogen or other purge gas is actively introduced to the reactor vessel) or active depressuring (using a vacuum pump, ejector system, or similar device) regardless of the reactor vent pressure.

* * * * *

■ 15. Section 63.1568 is amended by revising paragraph (a)(4) introductory text to read as follows:

§ 63.1568 What are my requirements for organic HAP emissions from sulfur recovery units?

(a) * * *

(4) On or before the date specified in § 63.1563(d), you must comply with one of the three options in paragraphs (a)(4)(i) through (iii) of this section during periods of startup and shutdown.

* * * * *

■ 16. Table 2 to subpart UUU of part 63 is amended by revising the entry for item 1 to read as follows:

TABLE 2 TO SUBPART UUU OF PART 63—OPERATING LIMITS FOR METAL HAP EMISSIONS FROM CATALYTIC CRACKING UNITS

For each new or existing catalytic cracking unit . . .	For this type of continuous monitoring system . . .	For this type of control device . . .	You shall meet this operating limit . . .
1. Subject to the NSPS for PM in 40 CFR 60.102 and not elect § 60.100(e).	Continuous opacity monitoring system.	Any	On and after August 1, 2017, maintain the 3-hour rolling average opacity of emissions from your catalyst regenerator vent no higher than 20 percent.
*	*	*	*	*	*	*

* * * * *

■ 17. Table 3 to subpart UUU of part 63 is amended by revising the entry for item 12 to read as follows:

TABLE 3 TO SUBPART UUU OF PART 63—CONTINUOUS MONITORING SYSTEMS FOR METAL HAP EMISSIONS FROM CATALYTIC CRACKING UNITS

For each new or existing catalytic cracking unit . . .	If you use this type of control device for your vent . . .	You shall install, operate, and maintain a . . .
*	*	*	*	*	*	*
12. Electing to comply with the operating limits in § 63.1564(a)(5)(ii) during periods of startup, shutdown, or hot standby.	Any	Continuous parameter monitoring system to measure and record the gas flow rate exiting the catalyst regenerator.[1]

[1] If applicable, you can use the alternative in § 63.1573(a)(1) instead of a continuous parameter monitoring system for gas flow rate.

* * * * *

■ 18. Table 5 to subpart UUU of part 63 is amended by revising the entry for item 2 to read as follows:

TABLE 5 TO SUBPART UUU OF PART 63—INITIAL COMPLIANCE WITH METAL HAP EMISSION LIMITS FOR CATALYTIC CRACKING UNITS

For each new and existing catalytic cracking unit catalyst regenerator vent . . .	For the following emission limit . . .	You have demonstrated initial compliance if . . .
*	*	*	*	*	*	*
2. Subject to NSPS for PM in 40 CFR 60.102a(b)(1)(i); or in § 60.102 and electing § 60.100(e) and electing to meet the PM per coke burn-off limit.	PM emissions must not exceed 1.0 g/kg (1.0 lb PM/1,000 lb) of coke burn-off.	You have already conducted a performance test to demonstrate initial compliance with the NSPS and the measured PM emission rate is less than or equal to 1.0 g/kg (1.0 lb/1,000 lb) of coke burn-off in the catalyst regenerator. As part of the Notification of Compliance Status, you must certify that your vent meets the PM limit. You are not required to do another performance test to demonstrate initial compliance. As part of your Notification of Compliance Status, you certify that your BLD; CO_2, O_2, or CO monitor; or continuous opacity monitoring system meets the requirements in § 63.1572.
*	*	*	*	*	*	*

[FR Doc. 2016–16451 Filed 7–12–16; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 160225143–6583–02]

RIN 0648–BF61

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery Off the Southern Atlantic States; Regulatory Amendment 25

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues regulations to implement Regulatory Amendment 25 for the Fishery Management Plan (FMP) for the Snapper-Grouper Fishery of the South Atlantic Region (Regulatory Amendment 25) as prepared and submitted by the South Atlantic Fishery Management Council (Council). This final rule revises the commercial and recreational annual catch limits (ACLs), the commercial trip limit, and the recreational bag limit for blueline tilefish. Additionally, this final rule revises the black sea bass recreational bag limit and the commercial and recreational fishing years for yellowtail snapper. The purpose of this final rule for blueline tilefish is to increase the optimum yield (OY) and ACLs based on a revised acceptable biological catch (ABC) recommendation from the Council's Scientific and Statistical Committee (SSC). The purpose of this final rule is also to achieve OY for black sea bass, and adjust the fishing year for yellowtail snapper to better protect these species and allow for increased economic benefits to fishers.

DATES: This rule is effective August 12, 2016, except for the amendments to § 622.187(b)(2), § 622.191(a)(10), and § 622.193(z) that are effective July 13, 2016.

ADDRESSES: Electronic copies of Regulatory Amendment 25, which includes an environmental assessment, a Regulatory Flexibility Act analysis, and a regulatory impact review may be obtained from *www.regulations.gov* or the Southeast Regional Office (SERO) Web site at *http://sero.nmfs.noaa.gov/sustainable_fisheries/s_atl/sg/2015/reg_am25/index.html.*

FOR FURTHER INFORMATION CONTACT: Mary Janine Vara, NMFS SERO, telephone: 727–824–5305, or email: *mary.vara@noaa.gov.*

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic Region is managed under the FMP and includes blueline tilefish, black sea bass, and yellowtail snapper. The FMP was prepared by the Council and is implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

On June 1, 2016, NMFS published a proposed rule for Regulatory Amendment 25 and requested public comment (81 FR 34944). The proposed rule and Regulatory Amendment 25 outline the rationale for the actions contained in this final rule. A summary of the actions implemented by Regulatory Amendment 25 and this final rule is provided below.

Management Measures Contained in This Final Rule

This final rule revises the commercial and recreational ACLs, commercial trip limit, and recreational bag limit for blueline tilefish; revises the recreational bag limit for black sea bass; and revises the fishing year for the yellowtail snapper commercial and recreational sectors. All ABC and ACL weights in this final rule are expressed in round weight.

Blueline Tilefish ACLs

This final rule revises the commercial and recreational ACLs for blueline tilefish. The current commercial ACLs are 26,766 lb (12,141 kg) for 2016, 35,785 lb (16,232 kg) for 2017, and 44,048 lb (19,980 kg) for 2018 and subsequent fishing years. The current recreational ACLs are 26,691 lb (12,107 kg) for 2016, 35,685 lb (16,186 kg) for 2017, and 43,925 lb (19,924 kg) for 2018 and subsequent fishing years. These ACLs were implemented through the final rule to implement Amendment 32 to the FMP (80 FR 16583, March 30, 2015). This final rule increases both the commercial and recreational ACLs for blueline tilefish in the exclusive economic zone (EEZ) of the South Atlantic. The commercial ACL will be set at 87,521 lb (39,699 kg) and the recreational ACL will be set at 87,277 lb (39,588 kg).

In Regulatory Amendment 25, the Council is revising the blueline tilefish total ACL (combined commercial and recreational ACL) based on a new ABC recommendation from the Council's SSC. The SSC provided their blueline tilefish ABC recommendation to set the ABC at the equilibrium yield at 75 percent of the fishing mortality that produces the maximum sustainable yield (224,100 lb (101,650 kg)). The Council accepted the SSC's ABC recommendation and determined that this revised ABC is sufficient to prevent the overfishing of blueline tilefish.

The Council is also revising the total ACL to increase the buffer between the blueline tilefish ABC and ACL from 2 percent to 22 percent. The increase in the buffer is to account for management uncertainty, such as increased blueline tilefish landings north of the Council's area of jurisdiction. In Amendment 32, the Council set the total blueline tilefish ACL for the South Atlantic at 98 percent of the recommended ABC for the entire Atlantic region to account for management uncertainty because the stock assessment was coast-wide and the Council was aware that landings of blueline tilefish occurred north of North Carolina. In Regulatory Amendment 25, the Council set the total ACL at 78 percent of the ABC. This decision is based on a comparison of the landings between the South Atlantic and Greater Atlantic Regions (Maine through Virginia), which indicate that 22 percent of the landings from 2011–2014 are from the Greater Atlantic Region.

Blueline Tilefish Commercial Trip Limit

The current commercial trip limit for blueline tilefish is 100 lb (45 kg), gutted weight; 112 lb (51 kg), round weight, and was implemented in Amendment 32. The Council selected that trip limit as a way to slow the commercial harvest of blueline tilefish, potentially lengthen the commercial fishing season, and reduce the risk of the commercial ACL being exceeded. This final rule increases the blueline tilefish commercial trip limit to 300 lb (136 kg) gutted weight; 336 lb (152 kg), round weight. The Council decided that an appropriate response to the increase in ABC and total ACL is to increase the commercial trip limit. The increase in the commercial trip limit will increase the socioeconomic benefits to commercial fishermen. In addition, the increase in the commercial trip limit is not expected to result in an in-season closure of blueline tilefish.

Blueline Tilefish and Black Sea Bass Recreational Bag Limits

This final rule revises the recreational bag limits for both blueline tilefish and black sea bass. The current blueline tilefish bag limit is one fish per vessel per day for the months of May through August and is part of the aggregate bag limit for grouper and tilefish. There is no recreational retention of blueline

tilefish during the rest of the fishing year. This bag limit was implemented in Amendment 32. In conjunction with the increase in the recreational ACL in Regulatory Amendment 25, this final rule increases the recreational bag limit to three fish per person per day for the months of May through August and the bag limit remains part of the aggregate bag limit for grouper and tilefish. There will continue to be no recreational retention of blueline tilefish during the months of January through April and September through December, each year.

The current bag limit for black sea bass is five fish per person per day and was implemented through the final rule for Regulatory Amendment 9 to the FMP (76 FR 34892, June 15, 2011). This final rule increases the recreational bag limit for black sea bass to seven fish per person per day. The Council decided to increase the bag limit to help achieve OY because the recreational ACL has not been met in recent years. Additionally, increasing the daily bag limit to seven fish per person per day is not expected to result in exceeding the recreational ACL or require an in-season closure of the recreational sector.

Yellowtail Snapper Fishing Year

The current fishing year for the yellowtail snapper commercial and recreational sectors in the South Atlantic is January 1 through December 31. The in-season accountability measure for the commercial sector is to close yellowtail snapper when the commercial ACL is met or projected to be met.

This final rule revises the fishing year for both the commercial and recreational sectors to be August 1 through July 31, each year. Changing the start of the fishing year to August 1 will benefit both sectors because it will help ensure that harvest is allowed during the winter months when yellowtail snapper obtain a higher price per pound commercially and during peak tourist season in south Florida, where the majority of recreational yellowtail snapper harvest occurs. Additionally, if an in-season closure for the commercial sector were to occur as a result of the ACL being met, that such a closure would likely occur later in the fishing year. With a fishing year start date of August 1, any such closure would likely coincide with the yellowtail snapper peak spawning period of May through July, thereby possibly providing additional biological benefits to the stock.

Comments and Responses

NMFS received 23 comment submissions from individuals on the proposed rule and Regulatory Amendment 25. Some of the comments were outside the scope of the proposed rule and Regulatory Amendment 25, and 11 comments agreed with the actions contained in Regulatory Amendment 25. These comments are not addressed in this final rule. The comments that relate to one or more of the management actions in the proposed rule and Regulatory Amendment 25 are summarized and responded to below.

Comment 1: The recreational bag limit for blueline tilefish should be seven fish per person per day during May through October.

Response: NMFS disagrees. The Council selected their preferred alternative of a recreational bag limit of three fish per person per day during May through August, and no harvest and retention for the remainder of the year to ensure the fishing season remains open. The accountability measure for the recreational sector is to prohibit harvest if the recreational ACL is met. A greater bag limit and longer season would increase both the rate and time period that blueline tilefish are caught and increases the likelihood that the recreational ACL would be met and an in-season closure would occur. Additionally, because blueline tilefish and snowy grouper co-occur and are frequently caught together, the Council chose to maintain the current May through August recreational fishing season for these two species to reduce regulatory discards and associated release mortality.

Comment 2: Several commenters did not agree with the proposed increase in the black sea bass bag limit from 5 to 7 fish per person per day, and suggested maintaining the current bag limit, or increasing the bag limit to 6 or 10 fish per person per day. One commenter stated that a bag limit of six fish per person per day would allow for increased harvest of black sea bass without meeting the recreational ACL, rather than a seven fish bag limit, which could result in a seasonal closure.

Response: NMFS disagrees. In 2011, Regulatory Amendment 9 to the FMP reduced the recreational bag limit for black sea bass from 15 to 5 fish per person per day to reduce the rate of harvest and extend the length of the recreational fishing season (76 FR 34892, June 15, 2011). Additionally, in 2013, Regulatory Amendment 19 increased the recreational ACL for black sea bass from 482,620 lb (218,913 kg), to 1,033,980 lb (469,005 kg), in response to the Southeast Data, Assessment, and Review (SEDAR) 25 Update Assessment, which indicated the stock was rebuilt, was not undergoing overfishing, and was not overfished (78 FR 58249, September 23, 2013). The recreational ACL has not been met in recent years under a bag limit of five fish. The Council determined that an increase in the recreational bag limit to seven black sea bass per person per day is appropriate, and is expected to allow the recreational season to remain open year-round.

Comment 3: Changing the fishing year start date for yellowtail snapper from January 1 to August 1 for the commercial and recreational sectors will negatively impact commercial and recreational fishermen.

Response: NMFS disagrees. At their December 2015 meeting, the Council recognized that a change in the fishing year start date for the commercial sector, if implemented, would not reduce the probability of another commercial in-season closure due to the commercial ACL being met (as occurred in 2015). Rather, Council members stated that changing the start date of the fishing year would only shift the time period of when a commercial closure would occur. The Council's intent is to increase the probability that a commercial closure would occur during a time of year that would impact fishermen the least and would benefit the stock the most. The Council chose to begin the yellowtail snapper commercial fishing year on August 1 because this alternative is expected to generate the highest dockside revenue since harvest would be open during the winter months when yellowtail snapper obtain a higher price per pound. Beginning the fishing year in the summer will also likely provide biological benefits to the stock because if the commercial ACL is met, the closure would coincide during the yellowtail snapper spawning season. The Council chose to begin the yellowtail snapper recreational fishing year on August 1 because that should yield the highest recreational average landings and provide the most socio-economic benefits. Although the Council was aware that this alternative could result in a shortened season, limiting recreational harvest in the early summer months, the Council sought to ensure that harvest is open during the peak winter tourist season in south Florida, where the majority of the yellowtail snapper harvest takes place. The August 1 fishing year start date for yellowtail snapper commercial and recreational sectors would also promote consistency in regulations between

sectors. Additionally, at their April 2016 meeting, the Gulf of Mexico Fishery Management Council approved a measure to begin the yellowtail snapper fishing year in the Gulf of Mexico on August 1 for the commercial and recreational sectors, compatible with the South Atlantic measures implemented through this final rule.

Comment 4: A yellowtail snapper closure for the commercial and recreational sectors during the summer months will negatively affect business.

Response: NMFS agrees that a yellowtail snapper closure during any time of the fishing year may negatively affect a business. However, the yellowtail snapper fishing year change in this final rule is intended to lessen the economic hardships associated with an in-season closure. The commercial ACL for yellowtail snapper was met in October 2015, and an in-season accountability measure to close the commercial sector through December 31, 2015, was implemented (80 FR 65970, October 28, 2015). The Council and NMFS expect that commercial landings in future years will be similar to those in 2015, making another in-season commercial closure likely to occur. However, changing the fishing year to August 1 through July 31 provides the benefit of allowing harvest during the winter months when yellowtail snapper obtain a higher price per pound.

Additionally, recreational landings of yellowtail snapper tend to increase in the spring and remain high during the summer months. Based on landings from 2010–2015, it is unlikely that the recreational sector ACL would be met during the August 1 through July 31 fishing year. However, prohibiting harvest during the late spring to early summer months after the recreational ACL is met coincides with the yellowtail snapper spawning season, biologically benefiting the stock.

Classification

The Regional Administrator, Southeast Region, NMFS, has determined that this final rule is consistent with Regulatory Amendment 25, the FMP, the Magnuson-Stevens Act, and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Magnuson-Stevens Act provides the statutory basis for this rule. The proposed rule and the preamble to this final rule provide a statement of the need for and objectives of this rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this final rule.

The Chief Council for Regulation of the Department of Commerce certified to the Chief Council for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. Comments and responses on the general economic effects of the proposed alternatives, or economic effects that fall outside the scope of the Regulatory Flexibility Act, are addressed in the Comments and Responses section. No changes were made in the final rule in response to such comments.

The factual basis for the certification published in the proposed rule determined that certain commercial fishing businesses would be directly affected by the proposed rule and concluded that all such businesses were small. On December 29, 2015, NMFS issued a final rule establishing a small business size standard of $11 million in annual gross receipts for all businesses primarily engaged in the commercial fishing industry (NAICS 11411) for Regulatory Flexibility Act (RFA) compliance purposes only (80 FR 81194, December 29, 2015). The $11 million standard became effective on July 1, 2016, and is to be used in place of the U.S. Small Business Administration's previous standard of $20.5 million in all NMFS rules subject to the RFA after July 1, 2016. Id. at 81194. NMFS has determined that the new size standard does not affect its decision to certify this regulatory action. As a result, a final regulatory flexibility analysis is not required and none has been prepared.

Three provisions in this final rule are exempt from the requirement to delay the effectiveness of a final rule by 30 days after publication in the **Federal Register**, under 5 U.S.C. 553(d)(1). Specifically, the following provisions relieve restrictions on the regulated community: The increased blueline tilefish recreational bag limit set forth at § 622.187(b)(2), the increased blueline tilefish commercial trip limit set forth at § 622.191(a)(10), and the increased blueline tilefish commercial and recreational catch limits set forth at § 622.193(z). NMFS finds good cause under 5 U.S.C. 553(d)(3) to waive the delay in the effective date for the measures pertaining to blueline tilefish in this rule, because these measures relieve restrictions by increasing ACLs and harvest limits for the commercial and recreational sectors for blueline tilefish in the South Atlantic EEZ. As described in Regulatory Amendment 25, increases in the blueline tilefish recreational bag limit, the commercial trip limit, and the sector ACLs are intended to be used in combination to achieve OY for the stock. Delaying implementation of these measures for blueline tilefish could result in snapper-grouper fishermen not having the opportunity to achieve OY from this stock, because the sectors would have insufficient time to harvest the ACL increases before the fishing year's end. Even though this final rule will increase the commercial trip limit and recreational bag limit, NMFS does not expect increased commercial and recreational harvest to result in in-season closures for blueline tilefish. This final rule does not change the period of allowable recreational harvest for blueline tilefish, and the recreational sector closes on September 1, 2016 (50 CFR 622.183(b)(7)). Additionally, for the reasons stated above, not waiving the 30-day delay of effectiveness for these blueline tilefish provisions is unnecessary and contrary to the public interest as a delay in implementation may negatively impact fishers and minimize the purpose of this final rule. Therefore, a delay in effectiveness would diminish the social and economic benefits for deep-water snapper-grouper fishermen this final rule provides, which is part of the purpose of the rule itself. Finally, this final rule creates no new duties, obligations, or requirements for the regulated community that would necessitate delaying this rule's effectiveness to allow them to come into compliance with it. Thus, the measures applicable to blueline tilefish in this final rule are effective upon publication.

List of Subjects in 50 CFR Part 622

Black sea bass, Blueline tilefish, Commercial, Fisheries, Fishing, Recreational, South Atlantic, Yellowtail snapper.

Dated: July 7, 2016.

Eileen Sobeck,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

■ 2. In § 622.7, add paragraph (f) to read as follows:

§ 622.7 Fishing years.

* * * * *

(f) *South Atlantic yellowtail snapper*—August 1 through July 31.

■ 3. In § 622.187:

■ A. Revise paragraph (b)(2)(iii);

■ B. Remove and reserve paragraph (b)(2)(iv); and

■ C. Revise paragraph (b)(7).

The revisions read as follows:

§ 622.187 Bag and possession limits.

* * * * *

(b) * * *

(2) * * *

(iii) No more than one fish may be a golden tilefish; and

* * * * *

(7) *Black sea bass—7.*

* * * * *

■ 4. In § 622.191, revise paragraph (a)(10) to read as follows:

§ 622.191 Commercial trip limits.

* * * * *

(a) * * *

(10) *Blueline tilefish.* Until the ACL specified in § 622.193(z)(1)(i) is reached or projected to be reached, 300 lb (136 kg), gutted weight; 336 lb (152 kg), round weight. See § 622.193(z)(1)(i) for the limitations regarding blueline tilefish after the commercial ACL is reached.

* * * * *

■ 5. In § 622.193, revise paragraph (z) to read as follows:

§ 622.193 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

* * * * *

(z) *Blueline tilefish*—(1) *Commercial sector.* (i) If commercial landings for blueline tilefish, as estimated by the SRD, reach or are projected to reach the commercial ACL of 87,521 lb (39,699 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of blueline tilefish is prohibited and harvest or possession of blueline tilefish in or from the South Atlantic EEZ is limited to the bag and possession limits. These bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

(ii) If commercial landings exceed the ACL, and the combined commercial and recreational ACL (total ACL) specified in paragraph (z)(3) of this section, is exceeded, and blueline tilefish is overfished, based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year to reduce the commercial ACL for that following year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector.* (i) If recreational landings for blueline tilefish, as estimated by the SRD, are projected to reach the recreational ACL of 87,277 lb (39,588 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year, unless the RA determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits are zero.

(ii) If recreational landings for blueline tilefish, exceed the applicable recreational ACL, and the combined commercial and recreational ACL (total ACL) specified in paragraph (z)(3) of this section is exceeded, and blueline tilefish is overfished, based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register, to reduce the length of the recreational fishing season in the following fishing year to ensure recreational landings do not exceed the recreational ACL the following fishing year. When NMFS reduces the length of the following recreational fishing season and closes the recreational sector, the following closure provisions apply: The bag and possession limits for blueline tilefish in or from the South Atlantic EEZ are zero. Additionally, the recreational ACL will be reduced by the amount of the recreational ACL overage in the prior fishing year. The fishing season and recreational ACL will not be reduced if the RA determines, using the best scientific information available, that no reduction is necessary.

(3) The combined commercial and recreational sector ACL (total ACL) is 174,798 lb (79,287 kg), round weight.

[FR Doc. 2016–16510 Filed 7–12–16; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 81, No. 134
Wednesday, July 13, 2016

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Parts 1235, 1236, and 1237

[FDMS No. NARA–16–0002; NARA–2016–017]

RIN 3095–AB89

Records Management

AGENCY: National Archives and Records Administration (NARA).

ACTION: Proposed rules.

SUMMARY: NARA proposes to revise its records management regulations to reflect executive actions, statutory changes, advances in technology, and organizational changes. This is phase II of the revisions and includes changes to provisions in transferring records to the National Archives of the United States, managing electronic records, and managing audiovisual, cartographic, and related records.

DATES: Submit comments on or before September 12, 2016.

ADDRESSES: You may submit comments, identified by RIN 3095–AB89, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: Regulation_comments@nara.gov.* Include RIN 3095–AB89 in the subject line of the message.
- *Fax:* 301–837–0319. Include RIN 3095–AB89 in the subject line of the fax cover sheet.
- *Mail* (for paper, disk, or CD–ROM submissions. Include RIN 3095–AB89 on the submission): Regulations Comment Desk (Strategy & Performance Division (SP)); Suite 4100; National Archives and Records Administration; 8601 Adelphi Road; College Park, MD 20740–6001
- *Hand delivery or courier:* Deliver comments to front desk at the address above.

Instructions: All submissions must include NARA's name and the regulatory information number for this rulemaking (RIN 3095–AB89). We may publish any comments we receive without changes, including any personal information you include.

FOR FURTHER INFORMATION CONTACT: Laura McCarthy, by email at *regulation_comments@nara.gov,* or by telephone at 301–837–3023. You may also find more information about records management at NARA on NARA's Web site at *http://www.archives.gov/records-mgmt/.*

SUPPLEMENTARY INFORMATION: The proposed revisions to the Federal records management regulations contained in 36 CFR Chapter XII, Subchapter B, affect Federal agencies' records management programs in the areas of permanent records and their transfer to the National Archives of the United States, electronic records management, and management of audiovisual, cartographic, and related records.

We are proposing changes to Federal records management regulations to incorporate recent executive actions, statutory changes, advances in technology, and NARA organizational changes.

The Presidential Memorandum—Managing Government Records (November 28, 2011) and subsequent implementing guidance (Office of Management and Budget Memorandum M–12–18, Managing Government Records Directive (August 24, 2012)) require NARA to modernize Federal records management practices, particularly with respect to electronic records. In 2014, the Presidential and Federal Records Act Amendments of 2014 ("FRA Amendments," Pub. L. 113–187) modernized the definition of a Federal record, addressed electronic messaging, and required agencies to transfer electronic permanent records to NARA in an electronic format to the greatest extent possible. We propose revisions in this rulemaking to address the changes regarding the transfer of electronic records and electronic messaging: additional changes to the regulations to address policy and statutory changes will be addressed in future revisions.

We are also making administrative changes, such as updating office names and organizational codes, updating URLs, and adding new links to NARA's records management Web pages. We are removing repetitive definitions sections from each part to a centralized definitions part (to come in part 1220) applying to all parts (streamlining under the Paperwork Reduction Act) and removing repetitive authorities sections from each part because authorities are noted under the table of contents (streamlining under the Paperwork Reduction Act). We are making other minor editorial changes for consistency among parts, and revising some language to comply with Plain Language requirements.

Discussion of Proposed Rule Provisions

Proposed Part 1235, Transfer of Records to the National Archives of the United States

This part establishes requirements for the transfer of permanent Federal records to the National Archives of the United States. Throughout part 1235, we have revised those sections referencing the paper transfer document, Standard Form 258 (SF–258), Agreement to Transfer Records to the National Archives of the United States, to add the electronic ERA Transfer Request, and other similar procedural items. ERA is the NARA system that Federal agencies use to request the transfer of permanent records to NARA.

Part 1235 is divided into three subparts. Subpart A, *General Transfer Requirements,* contains §§ 1235.1 through 1235.20 and prescribes the requirements that agencies must follow when they transfer permanent records to NARA. These sections remain largely unchanged from the current regulations with the exception of § 1235.20. We are proposing changes to § 1235.20 that would require agencies to review their historical records and remove any restrictions that no longer apply at time of transfer; provide additional information on any access and use restrictions that must remain; and identify classified records.

Our proposed revisions to Subpart B, *Administration of Transferred Records,* specifically § 1235.32, also provide for the removal of restrictions on transferred records when NARA believes it to be in the public interest.

Subpart C, *Transfer Specifications and Standards,* contains the specifications and requirements for agencies when transferring audiovisual, cartographic, and architectural records to NARA. We are proposing moving the transfer specifications and standards for

permanent analog and digital audiovisual, cartographic, and related records to Part 1237, Audiovisual, Cartographic, and Related Records.

Additionally, we are proposing to update our online transfer guidance to address electronic records and their formats and adding references to that guidance in the regulations so users can quickly access the latest updates. We are proposing adding two new sections, §§ 1235.52 and 1235.54, that contain the transfer specifications, standards, and procedures for transferring textual records into the National Archives of the United States.

Proposed Part 1236, Electronic Records Management

This part reflects an update in response to major developments in the area of electronic recordkeeping and electronic messaging and we have proposed several revisions to this part. These changes include provisions to reflect the 2014 FRA Amendments, a new section with Federal electronic messaging requirements, standards for internet message formats, new definitions for electronic messages and messaging accounts, and a requirement to associate proper names with email accounts.

Part 1236 is divided into three subparts. Subpart A, *General,* contains a new standard that we are proposing to incorporate by reference, RFC 5322, Internet Message Format (see: *http://www.rfc-base.org/txt/rfc-532),* that provides requirements for internet electronic message format; a detailed discussion of RFC 5322 is found below under the "Standards" heading. The 2014 FRA Amendments contained two new definitions that we propose adding to our definitions section: "electronic messages" and "electronic messaging account."

Subpart B, *Records Management and Preservation Consideration for Designing and Implementing Electronic Information Systems,* remains largely unchanged.

Subpart C, *Additional Requirements for Electronic Records,* specifies recordkeeping requirements for electronic records and includes a proposed new section on additional recordkeeping requirements for electronic messaging records. In § 1236.21, we propose adding the following provisions regarding electronic messaging records:

- Use of a non-official electronic messaging account is permitted only when agency-administered systems are unavailable; and
- Any electronic messaging record created, sent, or received in an unofficial account must be copied or forwarded to an agency-administered system within 20 days.

We are also adding language to § 1236.22 to specify that the proper name of the sender must either be captured with the email or the agency must maintain a record of the association between the email address and the employee, including any nicknames or aliases.

Proposed Part 1237, Audiovisual, Cartographic, and Related Records Management

This proposed part expands and updates the audiovisual records management provisions in the existing part 1237 by removing the transfer specifications and requirements for permanent audiovisual, cartographic, and related records from part 1235 and merging these into § 1237.12, which prescribes the records elements agencies must create, preserve, and transfer with both analog and digital audiovisual, cartographic, and related records.

Standards

NARA's current records management regulations incorporate by reference certain consensus standards developed by various organizations. The regulations in this proposed rule retain some previously approved standards incorporated by reference. In addition, this regulatory action proposes incorporating by reference the following standards (either updating current ones or adding new ones):

In 36 CFR 1235:

ISO 9660:1988(E), Information Processing—Volume and File Structure of CD–ROM for Information Exchange, First edition, as Corrected, 1988–09–01—Incorporated in § 1235.46

This is the same standard as is currently incorporated by reference. However, the ISO standard is now available from ANSI, as part of the DIN ISO 9660 (December 1990) version, so the description and availability information in § 1235.4 has been updated accordingly.

In 36 CFR 1236:

Request for Comment (RFC) 5322, Internet Message Format, 2008—Incorporated in § 1236.22

This standard provides requirements for internet electronic message format, including requirements for a message header, message header fields and syntax, and message body. NARA is incorporating this specification by reference in part 1236 to provide Federal agencies with clear minimum requirements for email messages. RFC 5322 is available to the public at *http://tools.ietf.org/html/rfc5322.*

In 36 CFR 1237:

The following six standards are available through the American National Standards Institute (ANSI) at: American National Standards Institute; 25 West 43rd St., 4th Floor; New York, NY 10036, or online at *http://webstore.ansi.org,* and from Techstreet, a standards reseller, at Techstreet; 3916 Ranchero Drive; Ann Arbor, MI 48108, by phone at (800) 699–9277, or online at *http://www.Techstreet.com.*

ISO 2859–1: 1999 ("ISO 2859–1"), Sampling Procedures for Inspection by Attributes—Part I: Sampling Schemes Indexed by Acceptable Quality Level (AQL) for Lot-by-Lot Inspection, Second Edition, November 15, 1999 (supplemented by Amendment 1, 2011)—Incorporated in § 1237.28(d)

This standard sets forth statistical methodologies and procedures for sampling plans devised for quality-control purposes, and keyed to calculations of "Acceptable Quality Limit" (AQL, the limit between acceptability and refusal with respect to defective products). The sampling plans are applicable to a variety of production and management processes, including systematic digitization projects involving substantial audiovisual holdings. Covered in the document are such key principles, steps, and calculations as: Expressions of non-conformity vis-à-vis product quality objectives; the AQL formulation; submission of products for sampling; acceptance and non-acceptance; drawing of samples; normal, tightened, and reduced inspection approaches; switching of sampling rules and procedures; sampling plan types; and determination of acceptability. The 1999 edition, supplemented by Amendment 1 from 2011, updates the original edition referenced in the present CFR. Changes introduce a greater measure of sampling flexibility and efficiency: A new procedure for switching from normal to reduced inspection; a new reference to "skip-lot" sampling as an alternative to reduced inspection; changes to double sampling plans to provide a smaller average sample size; reduction of multiple sampling plans from seven stages to five stages; and the addition of optional fractional acceptance number plans, among other revisions. We are incorporating the 1999 edition and 2011 amendment in part 1237 to provide agency personnel with the most rigorous, up-to-date guidance on how to monitor quality in processes profoundly

affecting the audiovisual records bound for NARA.

ISO 18902: 2013 ("ISO 18902"), Imaging Materials—Processed Imaging Materials—Albums, Framing, and Storage Materials, Third Edition, July 1, 2013—Incorporated in §§ 1237.16(b) and 1237.22(f)

This standard establishes physical and chemical requirements for album, storage, and framing materials necessary to arrest the natural decomposition of photographic prints, negatives, and transparencies over time. Included are detailed requirements for paper and paperboard, plastics, metals, writing instruments, adhesives, tapes, self-adhesive labeling materials, stamping inks and pads, framing and glazing materials used in the construction of storage and display devices, and various types of printers. The 2013 edition updates the 2001 version (referenced in the present CFR) as well as the 2007 version; among other changes, the latest edition adds more specific reporting protocols for annual testing and evaluation of housing materials, and also expands the applicability of the standard to housing for digital prints. We are incorporating the 2013 revision in part 1237 to provide agencies with current guidance on what materials to use, and what materials to avoid, for optimal photo housing.

ISO 18911: 2010 ("ISO 18911"), Imaging Materials—Processed Safety Photographic Films—Storage Practices, Second Edition, September 1, 2010—Incorporated in §§ 1237.16(b), 1237.16(d), and 1237.18(a)

This standard provides detailed recommendations on storage conditions, enclosures, housing, environmental controls, fire protection measures, and identification, inspection, and handling procedures for all safety (non-nitrate) photographic films in roll, strip, aperture-card, or sheet format, regardless of size. These standards provide systematic guidance on temperature and relative humidity levels needed for medium-term (minimum 10 years) and extended-term (500 years) preservation of film in the major process categories: Black-and-white and color, acetate-base and polyester-base. The 2010 edition updates the 2000 version presently referenced in the CFR, and includes a fuller discussion (with greater sensitivity to digital scanning possibilities) concerning the establishment and maintenance of record version/reference version approaches designed to minimize the wear and tear on original (record version) film. We are incorporating the 2010 edition in part 1237 to provide agencies with the most current guidance on what constitutes a "proper" approach to physical maintenance of historically valuable film-based photographic records. The latest authority also supports NARA's emphasis on timely transfer of at-risk photographic film from sub-standard storage conditions to standards-compliant NARA facilities.

ISO 18920: 2011 ("ISO 18920"), Imaging Materials—Reflection Prints—Storage Practices, Second Edition, October 1, 2011—Incorporated in § 1237.18(a)

This standard provides detailed recommendations on storage facilities, storage enclosures and housing, environmental conditions, fire protection measures, and identification, handling, and inspection procedures for prints of all types and sizes. This standard includes prints on fiber-based or resin-coated paper and prints on plastic supports; black-and-white silver gelatin prints and multicolor and monochrome color prints; and products of thermal dye transfer printing and inkjet printing. This standard includes guidance on temperature and relative humidity levels appropriate for medium-term preservation (minimum 10 years) and extended-term preservation (no fixed-year definition, but one reference to hundreds of years). The 2011 edition updates the 2000 version presently referenced in the CFR, and provides more specificity on digital print types. We are incorporating the 2011 revision in part 1237 to provide agencies with current guidance on "best practices" for physical maintenance of historically valuable photographic prints. The latest authority also supports NARA's emphasis on timely transfer of at-risk photographic film from sub-standard storage conditions to standards-compliant NARA facilities.

ISO 18925: 2013 ("ISO 18925"), Imaging Materials—Optical Disc Media—Storage Practices, Third Edition, February 1, 2013—Incorporated in § 1237.18(c)

This standard provides detailed recommendations for storage conditions, storage facilities, enclosures, and inspection procedures sufficient to prevent long-term deterioration of CDs, DVDs, and variant disc forms made for audio, video, photographic, and other electronic data applications. Included is guidance on environmental storage conditions, with an emphasis on temperature and humidity limits, dangers posed by contaminants and gaseous impurities, and the impact of magnetic fields. Also covered are storage materials, enclosures, labeling, acclimatization, storage rooms and housing, fire protection measures, and identification, inspection, and cleaning procedures. The 2013 edition updates the 2002 version (referenced in the present CFR) and also the 2008 version. We are incorporating the 2013 revision in part 1237 to provide agency personnel with current guidance on the appropriate strategies for maximizing the useful life of optical discs.

NFPA 40–2011 ("NFPA 40–2011"), Standard for the Storage and Handling of Cellulose Nitrate Film, 2011—Incorporated in § 1237.30(a)

This standard provides detailed requirements relating to the many aspects of nitrate film storage and handling, including construction and arrangement of nitrate-storing buildings, environmental controls, fire protection measures, cabinets and vaults for extended term storage, containers for film transport and eventual disposal, and enclosed areas for nitrate film viewing. The 2011 edition updates the 2007 version referenced in the present CFR; among other changes, the new edition incorporates updated specifications for film vault fire protection and also adds an explanatory section on converting calculations based on roll film quantities to sheet film equivalencies. We are incorporating the 2011 revision in part 1237 to provide agency personnel with current guidance on safe storage and handling of nitrate film.

Regulatory Analysis

Review Under Executive Orders 12866 and 13563

Executive Order 12866, Regulatory Planning and Review, 58 FR 51735 (September 30, 1993), and Executive Order 13563, Improving Regulation and Regulation Review, 76 FR 23821 (January 18, 2011), direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). This proposed rule is not "significant" under section 3(f) of Executive Order 12866 because it applies only to Federal agencies, and is updating the regulations, not establishing new programs. Although the proposed revisions change and add new requirements for agencies, the requirements are necessary to keep the existing regulations up-to-date and to ensure agencies are preserving records

for the United States as well as possible. The Office of Management and Budget (OMB) has reviewed this regulation.

Review Under the Regulatory Flexibility Act (5 U.S.C. 601, et seq.)

This review requires an agency to prepare an initial regulatory flexibility analysis and publish it when the agency publishes the proposed rule. This requirement does not apply if the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities (5 U.S.C. 603). NARA certifies, after review and analysis, that this proposed rule will not have a significant adverse economic impact on small entities.

Review Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, et seq.)

This proposed rule does not contain any information collection requirements subject to the Paperwork Reduction Act.

Review Under Executive Order 13132, Federalism, 64 FR 43255 (August 4, 1999)

Review Under Executive Order 13132 requires that agencies review regulations for Federalism effects on the institutional interest of states and local governments, and, if the effects are sufficiently substantial, prepare a Federal assessment to assist senior policy makers. This proposed rule will not have any direct effects on State and local governments within the meaning of the Executive Order. Therefore, no Federalism assessment is required.

List of Subjects in 36 CFR Parts 1235, 1236 and 1237

Archives, Incorporation by reference, Records, Records management.

For the reasons stated in the preamble, NARA proposes to amend 36 CFR parts 1235, 1236, and 1237 as follows:

■ 1. Revise part 1235 to read as follows:

PART 1235—TRANSFERRING PERMANENT RECORDS TO THE NATIONAL ARCHIVES OF THE UNITED STATES

Sec.

Subpart A—General Transfer Requirements

1235.3 What standards apply to this part?
1235.4 What publication(s) are incorporated by reference into this part?
1235.10 What records do agencies transfer to the National Archives of the United States?
1235.12 When must agencies transfer records to the National Archives of the United States?
1235.14 May agencies retain records longer than the retention period established by the records schedule?
1235.16 How does NARA respond to an agency's request to retain records?
1235.18 How do agencies transfer records to the National Archives of the United States?
1235.20 How do agencies indicate that records contain information that may be restricted from public access?
1235.22 When does legal custody of records transfer to the National Archives of the United States?

Subpart B—Administration of Transferred Records

1235.30 Does NARA restrict access to transferred records?
1235.32 How does NARA handle access restrictions on transferred records?
1235.34 May NARA destroy transferred records?

Subpart C—Transfer Specifications and Standards

1235.40 What records are covered by additional transfer requirements?
1235.42 What transfer specifications and standards apply to audiovisual, cartographic, and related records?
1235.44 What general transfer requirements apply to electronic records?
1235.46 What media or method may agencies use to transfer electronic records to the National Archives of the United States?
1235.50 What transfer specifications and standards apply to electronic records?
1235.52 What transfer specifications and standards apply to textual records?
1235.54 How do agencies transfer permanent textual records to the National Archives of the United States?
1235.56 How do agencies transfer permanent electronic records to the National Archives of the United States using the Electronic Records Archives (ERA)?

Authority: 44 U.S.C. 2107 and 2108.

Subpart A—General Transfer Requirements

§ 1235.3 What standards apply to this part?

In addition to this part, you can find guidance and additional information about transferring permanent records to the National Archives of the United States on NARA's accessioning Web page at *http://www.archives.gov/records-mgmt/accessioning/*.

§ 1235.4 What publications are incorporated by reference into this part?

(a) NARA incorporates certain material by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, NARA must publish a document in the **Federal Register** and must make the material available to the public. You may inspect all approved material incorporated by reference at NARA's textual research room, located at National Archives and Records Administration; 8601 Adelphi Road, Room 2000; College Park, MD 20740–6001. To arrange to inspect this approved material at NARA, contact NARA's Regulation Comments Desk (Strategy & Performance Division (SP)) by email at *regulation_comments@nara.gov* or by telephone at 301–837–3023. All approved material is available from the sources listed below. You may also inspect approved material at the Office of the Federal Register (OFR). For information on the availability of this material at the OFR, call 202–741–6030 or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(b) American National Standards Institute (ANSI). The following standards are available from the American National Standards Institute, 25 West 43rd St., 4th Floor, New York, NY 10036, phone number (212) 642–4900, or online at *http://webstore.ansi.org*.

(1) ISO 9660–1990 (''ISO 9660''), *Information processing—Volume and File Structure of CD–ROM for Information Exchange,* First edition, as corrected, 1988–09–01. IBR approved for § 1235.46(b).

(2) [Reserved]

§ 1235.10 What records do agencies transfer to the National Archives of the United States?

Agencies must transfer to the National Archives of the United States those records that the Archivist of the United States has deemed to have sufficient historical value to warrant permanent preservation by the United States Government. This includes records that agencies have scheduled as permanent on a NARA-approved records schedule, records that a General Records Schedule (GRS) designates as permanent, and, when appropriate, records that are accretions to holdings (*i.e.,* continuations of series already transferred).

§ 1235.12 When must agencies transfer records to the National Archives of the United States?

Agencies must transfer permanent records to the National Archives of the United States when:

(a) The records are eligible for transfer based on the transfer date in a NARA-approved records schedule; or

(b) NARA has deemed the records to have sufficient historical value to warrant permanent preservation by the

United States Government and the records have existed for more than 30 years (see also § 1235.14).

§ 1235.14 May agencies retain records longer than the retention period established by the records schedule?

(a) Agencies may retain certain records longer than specified on a records schedule only with written approval from NARA. NARA will review requests as exceptions to an approved disposition authority (see part 1225 of this subchapter for more information about changing retention periods in an approved disposition authority).

(b) If an agency determines that it needs to keep certain records longer than scheduled to conduct regular business, the agency's Records Officer must submit a written request certifying continuing need to NARA by mail to National Archives and Records Administration; Office of the Chief Records Officer (AC); 8601 Adelphi Road; College Park, MD 20740–6001, or by email to *permanentrecords@nara.gov.* This certification must:

(1) Include a comprehensive description and location of the records;

(2) Cite the NARA-approved disposition authority;

(3) Describe the current business for which the agency needs the records;

(4) Estimate the length of time the agency needs the records (if the agency provides no date, any certification request NARA may approve is effective for a maximum of five years);

(5) Explain why agency needs cannot be met by NARA reference services or copies of records deposited in the National Archives of the United States; and

(6) If the agency retains the records to enable routine public access through the agency rather than through NARA, cite the statutory authority authorizing this agency activity.

§ 1235.16 How does NARA respond to an agency's request to retain records?

(a) NARA responds in writing to requests within 30 days of receiving them, whether approving or denying the request.

(b) NARA may deny requests to retain records in certain cases, including when the agency requests to retain the records primarily to:

(1) Provide access services to individuals outside the agency that can be provided by NARA; or

(2) Function as an agency archives, unless specifically authorized by statute or by NARA.

§ 1235.18 How do agencies transfer records to the National Archives of the United States?

Agencies transfer records by completing and submitting a Transfer Request (TR) in the Electronic Records Archives (ERA) or a signed Standard Form (SF) 258, Agreement to Transfer Records to the National Archives of the United States (if special circumstances merit use; see *http://www.archives.gov/records-mgmt/era/faqs.html* for more details). Each TR or SF 258 must correlate to a specific records series or other aggregation of records, as identified in an item on a records schedule or under circumstances noted in § 1235.10. The National Archives makes the final determination to accept transfers of permanent records.

§ 1235.20 How do agencies indicate that records contain information that may be restricted from public access?

Agencies should consider the historical nature of the records when indicating what restrictions may apply at the time of transfer to the National Archives of the United States. Agencies must conduct a review of restrictions on records and remove any restrictions that are not applicable at the time of transfer. In addition, agencies should consult NARA's accessioning Web page at: *http://www.archives.gov/records-mgmt/accessioning/,* and NARA's Transfer Guidance at: *http://www.archives.gov/records-mgmt/policy/transfer-guidance.html* for information about documentation that agencies must transfer with electronic records.

(a) Agencies must indicate all restrictions on access and use of the records when completing Transfer Request (TR) in the Electronic Records Archives (ERA) or a signed Standard Form (SF) 258, Agreement to Transfer Records to the National Archives of the United States (see *http://www.archives.gov/records-mgmt/era/agency-user-manual.pdf* for NARA's ERA Agency User Manual, or the accessioning Web page at: *http://www.archives.gov/records-mgmt/accessioning/,* for further instructions).

(1) The TR or SF 258 must cite any Freedom of Information Act (FOIA) exemptions (5 U.S.C. 552(b)) that authorize the restrictions. When an agency cites Exemption 3, they must also cite the underlying statutory restriction.

(2) NARA may require additional information on access and use restrictions.

(3) If the Archivist of the United States agrees to the restrictions, NARA will place such restrictions on the records, until such time as NARA deems it in the public interest to remove the restrictions.

(b) Agencies must include the Classified Records Transfer Check List, National Archives and Records Administration Form (NA Form) 14130 (*http://www.archives.gov/declassification/ndc/forms/na-14130.pdf*) as an attachment to the ERA TR or the SF 258 when classified and declassified records are ready for transfer to the National Archives.

(c) Agencies must use Standard Form (SF) 715, Government Declassification Review Tab, to tab and identify specific documents that contain classified information that:

(1) Is exempt or excluded from automatic declassification; or

(2) Requires referral to another agency. See 32 CFR part 2001 *Classified National Security Information,* and ISOO Notice 2009-02, at: *http://www.archives.gov/isoo/notices/notice-2009-02-sf715.pdf,* for further guidance.

§ 1235.22 When does legal custody of records transfer to the National Archives of the United States?

Legal custody of records passes from the agency to the National Archives of the United States when the appropriate NARA official signs the Electronic Records Archives (ERA) Legal Transfer Instrument (LTI) or Standard Form (SF) 258, Agreement to Transfer Records to the National Archives of the United States (if special circumstances merit use).

Subpart B—Administration of Transferred Records

§ 1235.30 Does NARA restrict access to transferred records?

Consistent with NARA's General Restrictions (subpart D of part 1256 of this chapter) and with FOIA (5 U.S.C. 552(b)):

(a) NARA enforces restrictions on access to records in the National Archives of the United States. This applies to access by both Federal agencies and the public; and

(b) NARA regulations in subchapter C of this chapter apply to Federal agency personnel accessing transferred records for official Government purposes, and to the public at large.

§ 1235.32 How does NARA handle access restrictions on transferred records?

(a) *Records less than 30 years old.* NARA will apply the Freedom of Information Act (FOIA) exemptions cited on the Electronic Records Archives (ERA) Transfer Request or Standard Form (SF) 258, Agreement to Transfer Records to the National Archives of the United States, where

appropriate, and conduct a FOIA review, where NARA deems it necessary, before releasing records to the public. NARA may relax, remove, or impose restrictions to serve the public interest.

(b) *Records more than 30 years old.* After records are more than 30 years old, NARA may lift restrictions, as appropriate, but may keep the restrictions in force for a longer period.

§ 1235.34 May NARA destroy transferred records?

NARA will only destroy records transferred to the National Archives of the United States' legal custody:

(a) With the written concurrence of the agency or its successor; or

(b) As authorized on an Electronic Records Archives (ERA) Legal Transfer Instrument (LTI) or Standard Form (SF) 258, Agreement to Transfer Records to the National Archives of the United States.

Subpart C—Transfer Specifications and Standards

§ 1235.40 What records are covered by additional transfer requirements?

In addition to complying with subparts A and B of this part, agencies must follow the specifications and requirements in this subpart when transferring audiovisual, cartographic, architectural, and electronic records to the National Archives of the United States. In general, agencies must transfer such records to the National Archives of the United States as soon as they become inactive or whenever the agency cannot provide proper care and handling for the records, including adequate storage conditions (see parts 1236 and 1237 of this subchapter for storage information). For specific guidance about transferring permanent electronic records, see *http://www.archives.gov/records-mgmt/accessioning/electronic.html.*

§ 1235.42 What transfer specifications and standards apply to audiovisual, cartographic, and related records?

See § 1237.12 of this subchapter for specifications and standards for transfer of audiovisual, cartographic, and related records.

§ 1235.44 What general transfer requirements apply to electronic records?

(a) Each agency must retain a copy of permanent electronic records that it transfers to the National Archives of the United States until it receives official notification that NARA has assumed legal custody of the records.

(b) For guidance related to the transfer of electronic records other than those covered in this subpart, the agency must consult with NARA by mail at National Archives and Records Administration; Electronic Records Division (RDE); 8601 Adelphi Road; College Park, MD 20740–6001, or by email *atetransfers@nara.gov.*

(c) When transferring digital photographs and their accompanying metadata, the agency must consult with NARA by mail at National Archives and Records Administration; Special Media Records Division (RDS); 8601 Adelphi Road; College Park, MD 20740–6001, or by email at *stillpix.accessions@nara.gov.*

(d) Agencies should consult NARA's transfer guidance at *http://www.archives.gov/records-mgmt/policy/transfer-guidance.html.*

§ 1235.46 What media or method may agencies use to transfer electronic records to the National Archives of the United States?

(a) *General.* Agencies must use only sound and defect-free media for transfers to the National Archives of the United States. When permanent electronic records may be disseminated through multiple electronic media (*e.g.,* magnetic tape, CD–ROM) or mechanisms (*e.g.,* File Transfer Protocol (FTP)), the agency and NARA must agree on the most appropriate medium or method for transfer of the records to the National Archives of the United States.

(b) *Optical media (e.g., CD–ROM and DVD)).* Agencies may use CD–ROMs and DVDs to transfer permanent electronic records to the National Archives of the United States.

(1) CD–ROMs used for this purpose must conform to ISO 9660 (incorporated by reference; see § 1235.4).

(2) Permanent electronic records must be stored in discrete files. Transferred CD–ROMs and DVDs may contain other files, such as software or temporary records, but all permanent records must be in files that contain only permanent records. Agencies must indicate at the time of transfer if a CD–ROM or DVD contains temporary records and where those records are located on the CD–ROM or DVD. The agency must also specify whether NARA should return the CD–ROM or DVD to the agency or dispose of it after copying the permanent records to an archival medium.

(c) *Remote or Internet-based File Transfers.* Agencies may use remote or network transfer methods (*e.g.,* File Transfer Protocol (FTP)) to transfer permanent electronic records to the National Archives of the United States only with NARA's approval. Several important factors may limit the use of remote transfers, including the number of records, record file size, and available bandwidth. Agencies must contact NARA to initiate the transfer discussions. Contact NARA by mail at National Archives and Records Administration; Special Media Records Division (RDS); 8601 Adelphi Road; College Park, MD 20740–6001, or by email at *stillpix.accessions@nara.gov* (for digital photographs) or *mopix.accessions@nara.gov* (for electronic audiovisual records). For all other electronic records formats, contact NARA by mail at National Archives and Records Administration; Electronic Records Division (RDE); 8601 Adelphi Road; College Park, MD 20740–6001, or by email *atetransfers@nara.gov.* Agencies must submit an approved Transfer Request (TR) in the Electronic Records Archives (ERA) (or an Standard Form (SF) 258, Agreement to Transfer Records to the National Archives of the United States if special circumstances merit use) prior to each transfer of electronic records via remote transfer.

(d) *Other Media.* NARA may accept records for transfer on media not specified in paragraph (b) of this section. This includes select magnetic tape formats and external hard drives. Contact NARA by mail at National Archives and Records Administration; Electronic Records Division (RDE); 8601 Adelphi Road; College Park, MD 20740–6001, or by email at *etransfers@nara.gov* to ask if the National Archives is able to accept an alternate type of media.

§ 1235.50 What transfer specifications and standards apply to electronic records?

(a) *General.* Agencies must transfer all digital or electronic records to the National Archives of the United States in digital or electronic form. Agencies must transfer adequate documentation, including metadata, to identify, service, and interpret the permanent electronic records. See NARA's Transfer Guidance at: *http://www.archives.gov/records-mgmt/policy/transfer-guidance.html* for information about adequate documentation for transferring electronic records.

(b) *Data files.* Documentation for data files and databases must include record layouts, data element definitions, and code translation tables (codebooks) for coded data. Data element definitions, codes used to represent data values, and interpretations of these codes must match the actual format and codes as transferred.

(c) *Digital geospatial data files.* Digital geospatial data files must include the documentation specified in paragraph (b) of this section. In addition, documentation for digital geospatial data files can include metadata that

conforms to the Federal Geographic Data Committee's Content Standards for Digital Geospatial Metadata, as specified in Executive Order 12906 of April 11, 1994 (3 CFR, 1995 Comp., p. 882). Federal geographic data standards are available at: *http://www.fgdc.gov/standards/standards_publications.*

§ 1235.52 What transfer specifications and standards apply to textual records?

(a) Whenever agencies transfer textual records to the National Archives of the United States, they must provide the following:

(1) A folder title list or equivalent detailed records description, attached to the Electronic Records Archives (ERA) Transfer Request (TR) or Standard Form (SF) 258, Agreement to Transfer Records to the National Archives of the United States at time of submission to NARA; and

(2) Any indexes (textual or electronic) or other materials existing at the time of transfer that are used for finding, managing, or retrieving the records, and any other documentation needed or useful for identifying or using the records.

(b) Agencies must pack records in NARA-recognized/approved document storage containers (for further guidance, see *http://www.archives.gov/records-mgmt/accessioning/*).

§ 1235.54 How do agencies transfer permanent textual records to the National Archives of the United States?

(a) Agencies may transfer custody to the National Archives of the United States of permanent textual records that reach eligibility for disposition by submitting an Electronic Records Archive (ERA) Transfer Request (TR). NARA may choose to accept an Standard Form (SF) 258, Agreement to Transfer Records to the National Archives of the United States if special circumstances merit use. On all offers of permanent records, NARA determines whether requested restrictions are acceptable.

(b) If the agency stores permanent textual records at a Federal Records Center (FRC), the FRC Inter-Agency Agreement also governs the transfer of those permanent records.

§ 1235.56 How do agencies transfer permanent electronic records to the National Archives of the United States using the Electronic Records Archives (ERA)?

Once NARA approves a Transfer Request (TR) in ERA, agencies may ingest electronic records against that ERA TR. However, NARA encourages agencies to continue to provide electronic records to the National Archives of the United States in accordance with format guidance at *http://www.archives.gov/records-mgmt/policy/transfer-guidance.html.* NARA can then review, process, and ingest the electronic records against the approved ERA TR on the agency's behalf. Agencies should ingest electronic records against an approved ERA TR only after consultation at *etransfer@nara.gov.*

PART 1236—ELECTRONIC RECORDS MANAGEMENT

Subpart A—[Amended]

■ 2. Revise the authority citation for part 1236 to read as follows:

Authority: 44 U.S.C. 2904, 2911, 3101, 3102, and 3105.

■ 3. Remove and reserve § 1236.1.

§ 1236.1 [Reserved]

■ 4. Revise § 1236.2 to read as follows:

§ 1236.2 What definitions apply to this part?

In addition to the definitions in part 1220 that apply to all of subchapter B, including this part, the following definitions apply only to part 1236:

Electronic information system means an information system that contains and provides access to electronic Federal records and other information.

Electronic messages means email and other electronic messages that are used for purposes of communicating between individuals.

Electronic messaging account means any account that sends or receives electronic messages.

Email system means a system used to create, receive, and transmit electronic messages and other digital or electronic documents. This definition does not include file transfer utilities (software that transmits files between users but does not retain any transmission data), data systems that collect and process data which has been organized into data files or databases on computers, and word processing or other digital or electronic documents not transmitted by email.

Unstructured electronic records means records created using office automation applications, such as word processing applications or presentation software.

■ 20. Revise § 1236.4 to read as follows:

§ 1236.4 What publications are incorporated by reference in this part?

(a) NARA incorporates certain material by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, NARA must publish a document in the **Federal Register** and the material must be available to the public. You may inspect all approved material incorporated by reference at NARA's textual research room, located at National Archives and Records Administration; 8601 Adelphi Road, Room 2000; College Park, MD 20740–6001. To arrange to inspect this approved material at NARA, contact NARA's Regulations Comment Desk (Strategy & Performance Division (SP)) by email at *regulation_comments@nara.gov* or by telephone at 301–837–3023. All approved material is available from the sources listed below. You may also inspect approved material at the Office of the Federal Register (OFR). For information on the availability of this material at the OFR, call 202–741–6030 or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(b) Internet Engineering Task Force (IETF). The following standards are available from the Internet Engineering Task Force; c/o Association Management Solutions, LLC (AMS); 48377 Freemont Blvd., Suite 117; Freemont, CA 94538, (510) 492–4080.

(1) Request for Comments (RFC) 5322, Internet Message Format, October 2008. IBR approved for § 1236.22(b).

(2) [Reserved]

§ 1236.6 [Removed]

■ 5. Remove § 1236.6.

■ 6. Revise subpart B, Records Management and Preservation Considerations for Designing and Implementing Electronic Information Systems to read as follows:

Subpart B—Records Management and Preservation Considerations for Designing and Implementing Electronic Information Systems

Sec.

1236.10 What records management controls must agencies establish for records in electronic information systems?

1236.12 What records management and preservation considerations must agencies incorporate into the design and operation of electronic information systems?

1236.14 What must agencies do to protect records against technological obsolescence?

§ 1236.10 What records management controls must agencies establish for records in electronic information systems?

Agencies must incorporate records management controls into the electronic information system or integrate them into a recordkeeping system that is external to the information system itself

(see § 1236.20 of this part). The following types of records management controls ensure that Federal records in the electronic system provide adequate and proper documentation of agency business until the approved retention time is past:

(a) *Reliability:* Controls to ensure that the system keeps a full and accurate representation of all transactions, activities, or facts that occur in the system and that the agency can depend on the represented information in the course of subsequent transactions or activities;

(b) *Authenticity:* Controls to protect against unauthorized addition, deletion, alteration, use, and concealment of transactions, activities, information, or records;

(c) *Integrity:* Controls, such as audit trails, to ensure records are complete and unaltered;

(d) *Usability:* Mechanisms to ensure the agency can locate, retrieve, present, and interpret records;

(e) *Content:* Mechanisms to preserve the information contained within the record that the record's creator produced;

(f) *Context:* Mechanisms to cross-reference related records that show the record's organizational, functional, and operational circumstances. These will vary depending on the agency's business, legal, and regulatory requirements; and

(g) *Structure:* Controls to ensure the maintenance of the physical and logical format of the records and the relationships between the data elements.

§ 1236.12 What records management and preservation considerations must agencies incorporate into the design and operation of electronic information systems?

As part of the capital planning and systems development life cycle processes, agencies must:

(a) Plan and implement records management controls (see § 1236.10) in the system;

(b) Be able to retrieve and use all records in the system until the agency no longer needs them to conduct business and until the NARA-approved retention period expires. When agencies will need to retain records beyond the planned life of the system, they must also plan and budget for migration of records and their associated metadata. The migration plan must prevent loss of records due to media decay or technological obsolescence (see § 1236.14);

(c) Include contract provisions for the export of records at the end of a contract with third parties that have physical custody of agency records (including a cloud-based environment); and

(d) Include processes for transferring permanent records to the National Archives of the United States in accordance with part 1235 of this subchapter.

§ 1236.14 What must agencies do to protect records against technological obsolescence?

To successfully protect records against technological obsolescence, regardless of the storage environment and media, agencies must:

(a) Determine if the NARA-approved retention period for the records will be longer than the life of the system. If so, agencies must migrate the records and their associated metadata before retiring the current system.

(b) Ensure hardware and software are able to retain the electronic records' functionality and integrity regardless of the storage environment. To retain functionality and integrity, agencies must:

(1) Keep the records in a usable format until their authorized disposition date. When the agency must convert records to migrate them, the agency must still be able to maintain and dispose of the records in the authorized manner after conversion;

(2) Convert storage media to provide compatibility with current hardware and software as necessary; and

(3) Maintain a link between records and their metadata when converting or migrating. This includes capturing all relevant associated metadata at the point of migration (for both the records and the migration process).

Subpart C—[Amended]

■ 7. Revise §§ 1236.20 through 1236.24 to read as follows:

§ 1236.20 What are appropriate recordkeeping systems for electronic records?

Recordkeeping functionality may be built into the electronic information system, including email or other electronic messaging systems, or records can be transferred to an electronic recordkeeping repository. The following functionalities are necessary for electronic recordkeeping, and may be achieved through a combination of management policies and system controls:

(a) *Store and preserve Federal records and associated metadata.* Allow the agency to retrieve and use all records in the system until the agency no longer needs them to conduct business and until the NARA-approved retention period expires. Include procedures to migrate records and their associated metadata to new storage media or formats to avoid loss due to media decay or technology obsolescence;

(b) *Manage access and retrieval.* Establish appropriate user rights to access, search, and retrieve records, and prevent unauthorized access, modification, or destruction of records. Include appropriate audit trails to track use of the records;

(c) *Execute disposition.* Identify and transfer permanent records to the National Archives of the United States based on approved records schedules. Identify and destroy temporary records that are eligible for disposal. Apply records holds or freezes on disposition when required; and

(d) *Backup systems.* System and file backup processes and media that do not provide the appropriate recordkeeping functionalities must not be used as the agency electronic recordkeeping system.

§ 1236.21 In addition to recordkeeping system requirements, what additional requirements apply to managing electronic messaging records?

The additional requirements listed below apply to all electronic messaging records.

(a) Employees should use non-official electronic messaging accounts only when agency-administered systems are unavailable, and never as a routine business practice.

(b) Employees may not create or send a record using a non-official electronic messaging account unless the employee:

(1) Copies their official electronic messaging account when they originally create or transmit the record; or

(2) Forwards a complete copy of the record to their official electronic messaging account no later than 20 days after they originally create or transmit the record.

(c) When employees receive a record in a non-official electronic messaging account, they must forward a complete copy of the electronic message to their official electronic messaging account no later than 20 days after they receive the record.

(d) If employees intentionally fail to follow these requirements, they may face adverse disciplinary actions in accordance with 5 U.S.C. Ch. 75 (also see 44 U.S.C. 2911).

§ 1236.22 What are the additional requirements for managing email records?

(a) All Federal agencies must manage permanent and temporary email records in an electronic format with the capability to identify, retrieve, and use the records for as long as their disposition requires.

(b) Agencies must issue instructions for retaining and managing email records that include the following electronic recordkeeping requirements:

(1) Email messages must comply with the commonly accepted specifications outlined in Request for Comments (RFC) 5322, Internet Message Format (incorporated by reference, see § 1236.4). The record copy of the email message must include, at a minimum, subject, message body, address of sender and all addressee(s), and the time and date the message was sent and received;

(2) Associate nicknames or aliases of agency-created accounts with the proper name of the employee responsible for the agency-generated emails; if an agency does not capture these in the header section, it must maintain records that allow the agency to do so;

(3) Include the information necessary to identify, service, and interpret email records the agency transfers to the National Archives of the United States, in accordance with the requirements in paragraphs (b)(1) and (2) of this section and § 1235.50 of this subchapter;

(4) Preserve email message attachments that are part of the email record or linked to the email record with other related records; and

(5) If the email system identifies users by codes or nicknames or identifies addressees only by the name of a distribution list, retain the intelligent or full names on directories or distribution lists to identify the sender and addressee(s) of messages that are records.

(c) Agencies may elect to manage email records on the agency-administered email system itself, provided that:

(1) Users do not delete the messages before the NARA-approved retention period expires; and

(2) The system's automatic deletion rules ensure it preserves the records until the NARA-approved retention period expires.

§ 1236.24 In addition to recordkeeping system requirements, are there additional requirements for managing unstructured electronic records?

Agencies that manage unstructured electronic records must maintain the records in a recordkeeping system that meets the requirements in § 1236.10.

■ 8. Revise § 1236.26(a) to read as follows:

§ 1236.26 What actions must agencies take to maintain electronic information systems?

(a) Agencies must maintain inventories of electronic information systems and review the systems periodically for conformance to established agency procedures, standards, and policies as part of the periodic reviews required by 44 U.S.C. 3506. The review should determine if the agency has properly identified and described the records, and if the records schedule descriptions and retention periods reflect the current content and use. If not, agencies must submit a records schedule through NARA's Electronic Records Archive (ERA) records schedule system in accordance with part 1225 of this subchapter.

* * * * *

■ 9. Revise § 1236.28(c) and (e) to read as follows:

§ 1236.28 What additional requirements apply to the selection and maintenance of electronic records storage media for permanent records?

* * * * *

(c) For additional guidance on maintaining and storing CDs and DVDS, agencies may consult the National Institute of Standards and Technology (NIST) Special Publication 500–252, Care and Handling of CDs and DVDs at: *http://www.itl.nist.gov/iad/894.05/publications.html.*

* * * * *

(e) Agencies must annually read a statistical sample of electronic storage media that contains the record copy and backups of permanent and unscheduled records. Agencies must read and correct as appropriate all other electronic storage media which might have been affected by the same cause (*e.g.*, poor-quality tape, high usage, poor environment, improper handling).

(1) If agencies are maintaining magnetic computer tape libraries with 1800 or fewer tape media a 20 percent sample or a sample set of 50 media, whichever is larger, should be read.

(2) In magnetic computer tape libraries with more than 1800 media, agencies should read a sample of 384 media.

(3) Agencies should replace magnetic computer tape media with errors and, when possible, restore lost data.

* * * * *

■ 10. Revise part 1237 to read as follows:

PART 1237—MANAGING AUDIOVISUAL, CARTOGRAPHIC, AND RELATED RECORDS

Sec.

1237.1 What records management requirements apply to audiovisual, cartographic, and related records?
1237.3 What publications are incorporated by reference into this part?
1237.4 What definitions apply to this part?
1237.10 How must agencies manage their audiovisual, cartographic, and related records?
1237.12 What record elements must agencies create, preserve, and transfer for permanent audiovisual, cartographic, and related records?
1237.14 What are the additional scheduling requirements for audiovisual, cartographic, and related records?
1237.16 How do agencies store audiovisual records?
1237.18 What are the environmental standards for audiovisual records storage?
1237.20 How must agencies handle and maintain audiovisual records?
1237.22 How must agencies handle and maintain cartographic and related records?
1237.24 How must agencies handle and maintain aerial photographic records?
1237.26 What materials and processes must agencies use to create audiovisual records?
1237.28 How must agencies handle and maintain digital photographs?
1237.30 How must agencies handle and manage records on nitrocellulose-base and cellulose-acetate-base film?

Authority: 44 U.S.C. 2904 and 3101.

§ 1237.1 What records management requirements apply to audiovisual, cartographic, and related records?

Agencies must manage audiovisual, cartographic, and related records in accordance with the common records management requirements in parts 1220 through 1235 of this subchapter. In addition, this part prescribes requirements specific to managing audiovisual, cartographic, and related records to ensure adequate and proper documentation and authorized, timely, and appropriate disposition.

§ 1237.3 What publications are incorporated by reference into this part?

(a) NARA incorporates certain material by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, NARA must publish a document in the **Federal Register** and must make the material available to the public. You may inspect all approved material incorporated by reference at NARA's textual research room, located at National Archives and Records Administration; 8601 Adelphi Road, Room 2000; College Park, MD 20740–6001. To arrange to inspect this approved material at NARA, contact NARA's Regulation Comments Desk (Strategy & Performance Division (SP)) by email at *regulation_comments@nara.gov* or by telephone at 301–837–3023. All approved material is available from the sources listed below. You may

also inspect approved material at the Office of the Federal Register (OFR). For information on the availability of this material at the OFR, call 202–741–6030 or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(b) American National Standards Institute (ANSI). The following standards are available from American National Standards Institute; 25 West 43rd St., 4th Floor; New York, NY 10036, or online at: *http://webstore.ansi.org.*

(1) ANSI/AIIM TR34: 1996 (''ANSI/AIIM TR34''), Sampling Procedures for Inspection by Attributes of Images in Electronic Image Management and Micrographic Systems, May 13, 1996. IBR approved for § 1237.28(d).

(2) ISO 2859–1: 1999 (''ISO 2859–1''), Sampling Procedures for Inspection by Attributes—Part 1: Sampling Schemes Indexed by Acceptable Quality Level (AQL) for Lot-by-Lot Inspection, Second Edition, November 15, 1999 (supplemented by Amendment 1, 2011). IBR approved for § 1237.28(d).

(3) ISO 18902: 2013 (''ISO 18902''), Imaging Materials—Processed Imaging Materials—Albums, Framing, and Storage Materials, Third Edition, July 1, 2013. IBR approved for §§ 1237.16(b) and 1237.22(f).

(4) ISO 18906: 2000 (''ISO 18906''), Imaging Materials—Photographic Films—Specifications for Safety Film, First Edition, December 15, 2000. IBR approved for § 1237.26(a).

(5) ISO 18911: 2010 (''ISO 18911''), Imaging Materials—Processed Safety Photographic Films—Storage Practices, Second Edition, September 1, 2010. IBR approved for §§ 1237.16(b) and (d) and 1237.18(a).

(6) ISO 18920: 2011 (''ISO 18920''), Imaging Materials—Reflection Prints—Storage Practices, Second Edition, October 1, 2011. IBR approved for § 1237.18(a).

(7) ISO 18923: 2000 (''ISO 18923''), Imaging Materials—Polyester-Base Magnetic Tape—Storage Practices, First Edition, June 1, 2000. IBR approved for § 1237.18(b).

(8) ISO 18925: 2013 (''ISO 18925''), Imaging Materials—Optical Disc Media—Storage Practices, Third Edition, February 1, 2013. IBR approved for § 1237.18(c).

(c) National Fire Protection Association (NFPA). The following standards are available from the National Fire Protection Association; 1 Battery March Park; Quincy, MA 02269, by phone at (800) 344–3555, or online at: *http://www.nfpa.org.*

(1) NFPA 40–2011 (''NFPA 40–2011''), Standard for the Storage and Handling of Cellulose Nitrate Film, 2011. IBR approved for § 1237.30(a).

(2) [Reserved]

§ 1237.4 What definitions apply to this part?

In addition to the definitions in part 1220 that apply to all of subchapter B including this part, the following definitions apply only to part 1237:

Aerial photographic records means film-based images of the surface of the earth, of other planetary bodies, or of the atmosphere that have been taken from airborne vehicles or satellites. These records include:

(1) Vertical and oblique aerial negative film as well as copy negatives, internegatives, rectified negatives, and annotated and other prints from these negatives;

(2) Infrared, ultraviolet, multispectral, video, and radar imagery that has been converted to a film base; and

(3) The relevant index system in whatever form it may exist, such as mosaics, flight-line overlays or annotated maps, or electronic databases capturing the latitude and longitude (or other coordinate-based location data) of individual aerial photographic center points.

Architectural and engineering records means graphic records that depict the proposed and actual construction of stationary structures (*e.g.* buildings, bridges, and canals) or movable objects (*e.g.,* ships, aircraft, vehicles, weapons, machinery, and equipment). These records are also known as design and construction drawings and include closely-related indexes and written specifications.

Audiovisual means any pictorial or aural means of communicating information (*e.g.,* photographic prints, negatives, slides, digital images, sound recordings, and moving images).

Audiovisual equipment means equipment used to record, produce, duplicate, process, broadcast, distribute, store, or exhibit audiovisual materials or to provide any audiovisual services.

Audiovisual production means an organized and unified presentation, developed according to a plan or script, containing visual imagery, sound, or both, and used to convey information. An audiovisual production generally is a self-contained presentation.

Audiovisual records means records in pictorial or aural form, including still photographs and motion media (*i.e.,* moving images whether on motion picture film or as video recordings), sound recordings, graphic works (*e.g.,* printed posters), mixed media, and related finding aids and production files.

Cartographic records means graphic representations drawn to scale of selected cultural and physical features of the surface of the earth, of other planetary bodies, and of the atmosphere. They include maps, charts, photomaps, orthophotomaps and images, atlases, cartograms, globes, and relief models. Related records are those that are integral to the map-making process, such as field survey notes, geodetic controls, map history case files, source material, indexes, and finding aids.

§ 1237.10 How must agencies manage their audiovisual, cartographic, and related records?

Each Federal agency must manage its audiovisual, cartographic, and related records as required in parts 1220 through 1235 for all records. In addition, for these types of records, agencies must:

(a) Prescribe the types of audiovisual, cartographic, and related records the agency creates and maintains;

(b) Create and maintain current inventories showing the location of all generations of audiovisual records and all cartographic and related records, especially those not maintained centrally by the agency; and

(c) For permanent electronic records, consult NARA's transfer guidance at: *http://www.archives.gov/records-mgmt/policy/transfer-guidance.html.*

§ 1237.12 What record elements must agencies create, preserve, and transfer for permanent audiovisual, cartographic, and related records?

In general, the physical types described below comprise the minimum record elements that agencies must provide for future preservation, duplication, and reference.

(a) *Motion pictures.*

(1) For agency-sponsored or produced motion picture films (*e.g.,* public information films), whether for public or internal use:

(i) Original negative or color original plus separate optical sound track;

(ii) Intermediate master positive or duplicate negative plus optical sound track; and

(iii) Sound projection print and video recording, if one exists.

(2) For agency-acquired motion picture films: two projection prints in good condition or one projection print and one videotape.

(3) For unedited footage, other outtakes, and trims (the discards of film productions), which the agency must properly arrange, label, and describe, and which show un-staged, unrehearsed events of historical interest or historically significant phenomena:

(i) Original negative or color original; and

(ii) Matching print or videotape.

(4) *For digital cinema records:* See NARA's transfer guidance relating to digital moving image files copied from analog film at: *http://www.archives.gov/records-mgmt/policy/transfer-guidance.html.*

(b) *Video recordings.*

(1) *For videotape:* The original or earliest generation videotape and a copy for reference. Agencies must comply with requirements in § 1237.26(c) for original videotapes, although agencies may transfer VHS, DVD, or other digital files as reference copies.

(2) *For video discs:* The premaster videotapes used to manufacture the video disc and two copies of the disc. Agencies must consult NARA by mail at National Archives and Records Administration; Special Media Records Division (RDS); 8601 Adelphi Road; College Park, MD 20740–6001, or by email at *mopix.accessions@nara.gov,* before initiating transfers of video discs that depend on interactive software or non-standard equipment.

(3) *For digital video records:* See NARA's transfer guidance relating to born-digital video files, or digital video files copied from analog video at: *http://www.archives.gov/records-mgmt/policy/transfer-guidance.html.*

(c) *Still pictures.*

(1) *For analog black-and-white photographs:* An original negative and a captioned print. The agency may maintain captioning information in hard copy or electronic form, such as a database or spreadsheet, if the agency ensures the caption-image number correlation is clear. If the original negative is on nitrate, or unstable acetate film base, the agency should also transfer a duplicate negative on a polyester base or a digital copy that meets, at minimum, the photographic scanning standards in NARA's Digital Photographic Transfer Guidance referenced in paragraph (d) of this section. NARA prefers that whenever possible, the digital copy meet the highest-level NARA Lab Services standards set forth at: *https://www.archives.gov/preservation/products/definitions/photo-def.html.*

(2) *For analog color photographs:* The original color negative, color transparency, or color slide; a captioned print of the original color negative; a duplicate negative, slide, or transparency, if it exists; and, where the caption does not appear directly with the image, captioning information maintained in another file presenting a clear caption-image number correlation.

(3) *For slide sets:* The original and a reference set, and the related audio recording (in accordance with paragraph (e) of this section) and script.

(4) *For other pictorial records, such as posters, original art work, and filmstrips:* The original and a reference copy. Please note the National Archives of the United States is not the appropriate repository for original physical artwork (*e.g.,* paintings and sculptures). Agencies may, however, transfer to the National Archives of the United States analog or digital photographic reproductions of the artwork meeting the requirements for analog photographs, listed above, or digital photographs, listed below.

(d) *Digital photographic records.* See NARA's transfer guidance for digital photographic records at: *http://www.archives.gov/records-mgmt/policy/transfer-guidance.html.* See also § 1237.14 (for transfer timing) and § 1237.28 (for making imagery transferable).

(e) *Sound recordings.*

(1) *For digital recordings:* The origination recording regardless of form and a subsequent generation copy for reference.

(2) *For analog disc recordings:* The master tape and two disc pressings of each recording (typically a vinyl copy for playback at 33⅓ revolutions per minute (rpm)).

(3) *For analog audio recordings on magnetic tape (open reel, cassette, or cartridge):* The original tape, or the earliest available generation of the recording, and a subsequent generation copy for reference.

(f) *Finding aids and production documentation.* Agencies must transfer the following records to the National Archives of the United States with the audiovisual records to which they pertain:

(1) Existing finding aids such as data sheets, shot lists, continuities, review sheets, catalogs, indexes, assignment logs, lists of captions, and other documentation needed or useful to identify or retrieve still images, graphic materials (posters), or audiovisual (moving and sound) records. Contact NARA by mail at National Archives and Records Administration; Special Media Records Division (RDS); 8601 Adelphi Road; College Park, MD 20740–6001, or by email at *mopixaccessions@nara.gov* (for audiovisual records) and *stillpix.accessions@nara.gov* (for digital still photographs) for information on transferring finding aids that do not meet the requirements of this part; and

(2) Production case files or similar files that include copies of production contracts, scripts, transcripts, and appropriate documentation bearing on the origin, acquisition, release, and ownership of the production (including, among other examples, licensing agreements and use permission forms).

(g) *Maps and charts.* This includes:

(1) Manuscript maps; printed and processed maps on which manuscript changes, additions, or annotations have been made for record purposes or which bear manuscript signatures to indicate official approval; and single printed or processed maps that have been attached to or interfiled with other documents of a record character or in any way made an integral part of the record;

(2) Master sets of printed or processed maps issued by the agency. A master set must include each edition of a printed or processed map issued;

(3) Paper versions of computer-related and computer-plotted maps that can no longer be reproduced electronically;

(4) Index maps, card indexes, lists, catalogs, or other finding aids that may be helpful in using the transferred maps; and

(5) Records related to preparing, compiling, editing, or printing maps, such as manuscript field notebooks of surveys, triangulation and other geodetic computations, and project folders containing agency specifications for creating the maps.

(h) *Aerial photography and remote sensing imagery.* This includes:

(1) Vertical and oblique negative aerial film;

(2) Annotated copy negatives, internegatives, rectified negatives, and glass plate negatives from vertical and oblique aerial film;

(3) Annotated prints from aerial film;

(4) Infrared, ultraviolet, multispectral (multiband), video, imagery radar, and related tapes, converted to a film base; and

(5) Indexes and other finding aids in the form of photo mosaics, flight line indexes, coded grids, and coordinate grids. (Note that, with respect to aerial imagery on nitrate or unstable acetate-based film, the same agency copying requirements apply as those cited above under still pictures, paragraph (c)(1) of this section).

(i) *Architectural and related engineering drawings.* This includes:

(1) Design drawings, preliminary and presentation drawings, and models that document the evolution of the design of a building or structure;

(2) Master sets of drawings that document both the initial design and construction and subsequent alterations of a building or structure. This category includes final working drawings, "as-built" drawings, shop drawings, and repair and alteration drawings;

(3) Drawings of repetitive or standard details of one or more buildings or structures;

(4) "Measured" drawings of existing buildings and originals or photocopies of drawings reviewed for approval; and

(5) Related finding aids and specifications to be followed.

(j) *Digital geospatial formats and Computer Aided Design (CAD).* See NARA's transfer guidance for digital geospatial formats and CAD at: *http://www.archives.gov/records-mgmt/policy/transfer-guidance.html.*

§ 1237.14 What are the additional scheduling requirements for audiovisual, cartographic, and related records?

For better preservation and access, schedule audiovisual records for as short a retention period as possible to meet agency business needs. Agencies should schedule permanent audiovisual records for transfer to the National Archives of the United States:

(a) Within 5–10 years after creation, in the case of unrestricted analog records or within 3–5 years after creation, in the case of unrestricted digital records (see 36 CFR part 1235 of this subchapter); and

(b) In the case of restricted analog or digital records, agencies should consult with NARA regarding transfers at *etransfer@nara.gov.*

§ 1237.16 How do agencies store audiovisual records?

Agencies must maintain appropriate storage conditions for permanent, long-term temporary, or unscheduled audiovisual records:

(a) Ensure that audiovisual records storage facilities comply with part 1234 of this subchapter;

(b) Use audiovisual storage containers or enclosures made of non-corroding metal, inert plastics, paper products, and other safe materials recommended in ISO 18902 and ISO 18911 (incorporated by reference; see § 1237.3) to store permanent, long-term temporary, or unscheduled records;

(c) Store originals and copies for use (*e.g.,* negatives and prints) separately whenever practicable. Store distinct audiovisual record series separately from textual series (*e.g.,* store poster series separately from other kinds of agency publications, or photographic series separately from general reference files). Retain intellectual control through finding aids, annotations, or other descriptive mechanisms;

(d) Store series of permanent and unscheduled x-ray films (*i.e.,* x-rays that are not interspersed among paper records (case files)) in accordance with § 1238.20 of this subchapter. Store series of temporary x-ray films under conditions that ensure they are preserved for their full scheduled retention period, in accordance with ISO 18911 (incorporated by reference; see § 1237.3);

(e) Store posters and similar oversized graphic works in map cases, hanging files, or other enclosures that are sufficiently large or flexible to accommodate the records without rolling, folding, bending, or other treatment that compromises image integrity and stability; and

(f) Store optical discs in individual containers and use felt-tip, water-based markers to label the discs.

§ 1237.18 What are the environmental standards for audiovisual records storage?

(a) *Photographic film and prints.* The requirements in this paragraph apply to permanent, long-term temporary, and unscheduled audiovisual records:

(1) Store polyester-base black-and-white film, and black-and-white photographic prints, in a climate-controlled environment at a constant temperature and humidity; as a best practice, at maximum 65 degrees Fahrenheit and between 30 and 40 percent relative humidity; and

(2) Keep all non-polyester black-and-white film, color film on any base, and color photographic prints in climate-controlled cold storage, in order to retard fading of color images and deterioration of acetate-base film. Maintain cold storage area at a constant temperature and humidity; as a best practice, at maximum 35 to 40 degrees Fahrenheit with 30 to 40 percent relative humidity. For more detailed, format- and process-specific requirements, see ISO 18911 and ISO 18920 (incorporated by reference; see § 1237.3). See also NARA Directive 1571, Archival Storage Standards, at: *www.archives.gov/foia/directives/nara/1571.pdf.*

(b) *Analog, digital records on magnetic tape.* For analog audio and video recordings and digital images stored on magnetic tape, keep in an area maintained at a constant temperature range of 62 to 68 degrees Fahrenheit, with constant relative humidity from 35 to 45 percent. See also the requirements for electronic records storage in § 1236.28 of this subchapter.

(c) *Digital images on optical media.* For permanent, long-term temporary, or unscheduled digital images maintained on optical media (*e.g.,* CDs, DVDs), use the storage temperature and humidity levels stated in ISO 18925 (incorporated by reference; see § 1237.3).

§ 1237.20 How must agencies handle and maintain audiovisual records?

Agencies must:

(a) Protect audiovisual records, including those recorded on digital media or magnetic sound or video media, from being accidentally or deliberately altered or erased;

(b) If different versions of audiovisual productions (*e.g.,* short and long versions or foreign-language versions) are prepared, keep an unaltered copy of each version for record purposes;

(c) Link audiovisual records with their finding aids, including captions and published and unpublished catalogs, inventories, assignment logs, indexes, production files, and similar documentation created in the course of audiovisual production. Establish and communicate agency-wide, clear-captioning standards, procedures, and responsibilities;

(d) Maintain current documentation identifying creators of audiovisual products, their precise relationship to the agency, and the nature and status of copyright or other rights affecting the present and future use of items acquired from sources outside the agency (see § 1222.32 of this subchapter for requirements to ensure agency ownership of contractor-produced records);

(e) For each audiovisual record, create unique identifiers that clarify connections and correlations between related elements (*e.g.,* photographic prints and corresponding negatives, original analog photographs and corresponding digital versions, original edited masters and corresponding dubbing for video and audio recordings). Unique identifiers must also associate records with the relevant creating, sponsoring, or requesting offices. The caption-image numbering correlation must be clear and facilitate precise and efficient access (*i.e.,* for digital files, use file naming conventions that ensure non-repetition across directory structures);

(f) Maintain temporary and permanent audiovisual records separately; and

(g) Require that personnel wear white, lint-free cotton gloves (or other approved gloves, such as un-powdered nitrile) when handling film and photographic prints.

(h) For more technical information on preservation strategies and options, consult with NARA at National Archives and Records Administration; Preservation Programs Division (RX) or Special Media Records Division (RDS); 8601 Adelphi Road; College Park, MD 20740–6001.

§ 1237.22 How must agencies handle and maintain cartographic and related records?

Agencies must:

(a) Maintain permanent and unscheduled cartographic, architectural, and engineering records in environments appropriate for the type of materials they are made of. Optimum environment for paper-based materials does not exceed 65 to 70 degrees Fahrenheit, with relative humidity under 50 percent. For film-based materials, see the targets in § 1237.24(e), below. See also NARA Directive 1571, Archival Storage Standards, at: *www.archives.gov/foia/directives/nara/1571.pdf.*

(b) Create an identification scheme for each series and assign unique identification designations to each item within a series;

(c) Maintain lists or indexes for each series with cross-references to related textual records;

(d) Avoid interfiling separate series of maps, charts, or drawings;

(e) File permanent cartographic and architectural records separately from temporary series, except that the agency may systematically file hand-corrected versions with other published maps in a central or master file;

(f) Avoid rolling and folding maps and drawings. Store permanent maps and drawings flat in shallow-drawer map cases in acid-free folders compliant with ISO 18902 (incorporated by reference; see § 1237.3); and

(g) Not laminate original oversized records. Consult NARA by mail at National Archives and Records Administration; Preservation Programs Division (RX); 8601 Adelphi Road; College Park, MD 20740–6001, for preservation, storage, and treatment options.

§ 1237.24 How must agencies handle and maintain aerial photographic records?

Agencies must:

(a) Mark each aerial film container with a unique identification code to facilitate identification and filing;

(b) Mark aerial film indexes with the unique aerial film identification codes or container codes for the aerial film that they index. Also, file and mark the aerial indexes in such a way that the agency can easily retrieve them by area covered;

(c) Store aerial film negative rolls in inert plastic containers upright on shelves, and assign identification codes to each roll of film;

(d) Wear white, lint-free cotton gloves (or other approved gloves, such as unpowdered nitrile) to handle film; and

(e) Store film in a climate-controlled environment at a constant temperature and humidity, ideally:

(1) Maximum 65 degrees Fahrenheit and between 30 and 40 percent relative humidity for polyester-base black-and-white film; and

(2) Maximum 35 to 40 degrees Fahrenheit and between 30 and 40 percent relative humidity for acetate-base film and color film on any base. For more detailed, format- and process-specific requirements, see ISO 18911 (incorporated by reference; see § 1237.3). See also NARA Directive 1571, Archival Storage Standards, at: *www.archives.gov/foia/directives/nara/1571.pdf.*

§ 1237.26 What materials and processes must agencies use to create audiovisual records?

(a) For still picture and motion picture preprints (*e.g.,* negatives, masters, and all other copies) of permanent, long-term temporary, or unscheduled records, use polyester-base media, and process in accordance with the industry standards in ISO 18906 (incorporated by reference; see § 1237.3).

(b) When reproducing excerpts or stock footage, avoid using motion pictures in a final "A & B" format (*i.e.,* two precisely matched reels designed to be printed together).

(c) Use only industrial- or professional-grade photographic cameras and equipment, video and audio recording equipment, new and previously unrecorded magnetic tape stock, blank optical media (*e.g.,* DVD and CD), or magnetic media (hard drives) for the record copy of all permanent, long-term temporary, or unscheduled imagery and recordings. Limit the use of consumer formats to distribution or reference copies or to subjects scheduled for destruction. Avoid using videocassettes in the VHS format as originals for permanent or unscheduled records.

(d) Record permanent, long-term temporary, temporary, or unscheduled audio recordings on optical media from major manufacturers. Avoid using cassettes as originals for permanent records or unscheduled records (although agencies may use them for reference copies).

(e) For born-digital or scanned digital images that are scheduled as permanent or unscheduled, a record (or master) version of each image must be comparable in quality to a 35mm film negative or better. The Tagged Image File Format (TIFF) and the JPEG File Interchange Format (JFIF, JPEG) are well-established examples of formats appropriate for saving permanent and unscheduled digital photographs.

(f) As a general rule, create such images at a resolution reaching or approximating at least 3000 pixels on the longest dimension.

(g) For temporary digital photographs, agencies select formats they deem most suitable to fulfill business needs.

(h) For further information about preferred and acceptable formats and versions, see NARA's transfer guidance at: *http://www.archives.gov/records-mgmt/policy/transfer-guidance.html.*

§ 1237.28 How must agencies handle and maintain digital photographs?

Digital photographs, either originating in digital form ("born-digital") or scanned from photographic prints, slides, and negatives, are subject to the provisions of this part and the requirements of part 1236 of this subchapter. Agencies must:

(a) Schedule digital photographs and related databases as soon as possible for the minimum retention period the agency requires to meet its business needs, and transfer records promptly according to the disposition instructions on the records schedule;

(b) Select image management and related database management software and hardware that meet long-term archival requirements, National Archives and Records Administration's transfer standards, and business needs. Agencies must be able to export images and related data in formats compatible with NARA systems. For additional information and assistance, contact NARA by mail at National Archives and Records Administration; Special Media Records Division (RDS); 8601 Adelphi Road; College Park, MD 20740–6001, or by email at *stillpix.accessions@nara.gov;*

(c) Build redundancy into storage systems (*i.e.,* back up image files through on-line, off-line, or combination approaches) when developing digital image storage strategies (see electronic storage requirements in § 1236.28 of this subchapter);

(d) Document the quality control inspection process the agency employs when scanning digital images of photographic prints, slides, and negatives that are scheduled as permanent or are unscheduled. As part of the process:

(1) Visually inspect a sample of the images for defects, evaluate finding aid accuracy, verify file header information and file name integrity; and

(2) Conduct the sample using a volume sufficiently large to yield statistically valid results, in accordance with one of the quality sampling methods presented in ANSI/AIIM TR34 and ISO 2859–1 (incorporated by reference; see § 1237.3);

(e) Periodically inspect born-digital images scheduled as permanent, long-term temporary, or unscheduled, using sampling methods or more comprehensive verification systems (*e.g.,* checksum programs), to evaluate image file stability, documentation quality, and finding aid reliability. Agencies must also establish procedures to refresh digital data (recopying) and to migrate files, especially for images and databases retained for five years or longer;

(f) Designate a record set of images to maintain separately from other versions. Do not subject record sets of permanent or unscheduled images that have already been compressed once (*e.g.,* compressed TIFF or first-generation JPEG) to further changes in image size;

(g) Organize record images in logical series. Group permanent digital images separately from temporary digital images or designate images as permanent or temporary in a metadata field designed for that purpose;

(h) Document information about digital photographic images as the agency produces them. Embed descriptive elements in each permanent or unscheduled image's file header or capture descriptive elements in a separate database accompanying the image series. Descriptive elements must include:

(1) A unique identification number;

(2) Information about image content (*i.e.,* basic "who," "what," "where," "when," "why" captioning data);

(3) Photographer's identity and organizational affiliation;

(4) Existence of any copyright or other potential restrictions on image use; and

(5) Technical data, including file format and version, bit depth, image size, camera make and model, compression method and level, and custom or generic color profiles (ICC/ICM profile), among other elements. In this regard, verify the extent of the Exchangeable Image File Format (EXIF) information embedded automatically by digital cameras and scanners;

(i) Provide a unique file name to identify the digital image; and

(j) Develop finding aids sufficiently detailed to ensure the agency can efficiently and accurately retrieve images. Ensure that the agency can use indexes, caption lists, and assignment logs to identify and chronologically cut off blocks of images for transfer to the National Archives of the United States.

§ 1237.30 How must agencies handle and manage records on nitrocellulose-base and cellulose-acetate-base film?

(a) The nitrocellulose base, a substance akin to gun cotton, is chemically unstable and highly flammable. Agencies must handle nitrocellulose-base film (used in the manufacture of sheet film, 35mm motion pictures, aerial and still photographs into the 1950s) as specified below:

(1) Segregate nitrocellulose film materials (*e.g.,* 35mm motion picture film and large series of still pictures) from other records in storage areas;

(2) Immediately notify NARA by mail at National Archives and Records Administration; Special Media Records Division (RDS); 8601 Adelphi Road; College Park, MD 20740–6001, or by email at *stillpix.accessions@nara.gov* (for still photographs) or *mopix.accessions@nara.gov* (for motion picture film). If NARA appraises nitrate film materials as disposable and the agency wishes to retain them, the agency must follow the standard NFPA 40–2011 (incorporated by reference; see § 1237.3); and

(3) Follow the packing and shipping standards for nitrate film as specified in Department of Transportation regulations (49 CFR 172.101, Hazardous materials table; 172.504, Transportation; 173.24, Standard requirements for all packages; and 173.177, Motion picture film and X-ray film—nitrocellulose base). Carry out nitrate film disposal in accordance with the relevant hazardous waste disposal regulations in 40 CFR, parts 260 through 282.

(b) Inspect cellulose-acetate film periodically (at least once every five years) for acetic odor, wrinkling, or crystalline deposits on the edge or surface of the film, which indicate deterioration. Agencies must notify NARA about deteriorating permanent or unscheduled audiovisual records composed of cellulose acetate immediately after inspection, so the agency can copy the records prior to transferring the original and duplicate film to the National Archives of the United States. Notify NARA by mail at National Archives and Records Administration; Special Media Records Division (RDS); 8601 Adelphi Road; College Park, MD 20740–6001, or by email at *stillpix.accessions@nara.gov* (for still photographs) or *mopix.accessions@nara.gov* (for motion picture film).

Dated: June 28, 2016.

David S. Ferriero,

Archivist of the United States.

[FR Doc. 2016–15848 Filed 7–12–16; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[EPA–R04–OW–2016–0356; FRL–9948–90–Region 4]

Ocean Dumping: Modification of an Ocean Dredged Material Disposal Site Offshore of Charleston, South Carolina

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a modification of the ocean dredged material disposal site (ODMDS) site offshore of Charleston, South Carolina pursuant to the Marine Protection, Research and Sanctuaries Act, as amended (MPRSA). The primary purpose for the site modification is to serve the long-term need for a location to dispose of material dredged from the Charleston Harbor federal navigation channel, and to provide a location for the disposal of dredged material for persons who have received a permit for such disposal. The modified site will be subject to ongoing monitoring and management to ensure continued protection of the marine environment.

DATES: Written comments must be received on or before August 12, 2016.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OW–2016–0356, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments and accessing the docket and materials related to this proposed rule.
- *Email: collins.garyw@epa.gov.*
- *Mail:* Gary W. Collins, U.S. Environmental Protection Agency, Region 4, Water Protection Division, Marine Regulatory and Wetlands Enforcement Section, 61 Forsyth Street, Atlanta, Georgia 30303.

Instructions: Direct your comments to Docket ID No. EPA–R04–OW–2016–0356. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an "anonymous access" system, which

means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *www.regulations.gov*, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: Publicly available docket materials are available either electronically at *www.regulations.gov* or in hard copy during normal business hours from the regional library at the U.S. Environmental Protection Agency, Region 4 Library, 9th Floor, 61 Forsyth Street, Atlanta, Georgia 30303. For access to the documents at the Region 4 Library, contact the Region 4 Library Reference Desk at (404) 562–8190, between the hours of 9:00 a.m. to 12:00 p.m., and between the hours of 1:00 p.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays, for an appointment.

FOR FURTHER INFORMATION CONTACT: Gary W. Collins, U.S. Environmental Protection Agency, Region 4, Water Protection Division, Marine Regulatory and Wetlands Enforcement Section, 61 Forsyth Street, Atlanta, Georgia 30303; phone number (404) 562–9395; email: *collins.garyw@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Potentially Affected Persons

Persons potentially affected by this action include those who seek or might seek permits or approval to dispose of dredged material into ocean waters pursuant to the Marine Protection, Research, and Sanctuaries Act, as amended (MPRSA), 33 U.S.C. 1401 to 1445. The EPA's proposed action would be relevant to persons, including organizations and government bodies seeking to dispose of dredged material in ocean waters offshore of Charleston, South Carolina. Currently, the U.S. Army Corps of Engineers (USACE) would be most affected by this action. Potentially affected categories and persons include:

Category	Examples of potentially regulated persons
Federal government	U.S. Army Corps of Engineers Civil Works projects, U.S. Navy and other Federal agencies.
Industry and general public	Port authorities, marinas and harbors, shipyards and marine repair facilities, berth owners.
State, local and tribal governments	Governments owning and/or responsible for ports, harbors, and/or berths, Government agencies requiring disposal of dredged material associated with public works projects.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding persons likely to be affected by this action. For any questions regarding the applicability of this action to a particular person, please refer to the contact person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

II. Background

a. History of Disposal Sites Offshore of Charleston, South Carolina

The existing Charleston ODMDS is located approximately 9 nautical miles (nmi) southeast of the mouth of Charleston Harbor on the continental shelf off the coast of South Carolina. It is currently 12.1 nmi^2 in size, with an authorized disposal zone that is 3.0 nmi^2 in size. Since 1896, the area now designated as the Charleston ODMDS and vicinity has been used for disposal of dredged material (*e.g.*, sand, silt, clay, rock) primarily from the Charleston Harbor Navigation Project. The Charleston ODMDS received interim site designation status in 1977 and final designation in 1987. The discovery of live bottom habitats within the original site resulted in several modifications to use of the site resulting in the creation of the restricted disposal zone.

The USACE Charleston District and the EPA Region 4 have identified a need to either designate a new ODMDS or expand the existing Charleston ODMDS. The need for expanding current ocean disposal capacity is based on future capacity modeling, historical dredging volumes, estimates of dredging volumes for future proposed projects, and limited capacity of upland confined disposal facilities (CDFs) in the area.

The proposed modification of the ODMDS for dredged material does not mean that the USACE or the EPA has approved the use of the ODMDS for open water disposal of dredged material from any specific project. Before any person can dispose dredged material at the ODMDS, the EPA and the USACE must evaluate the project according to the ocean dumping regulatory criteria (40 CFR part 227) and authorize the disposal. The EPA independently evaluates proposed dumping and has the right to restrict and/or disapprove of the actual disposal of dredged material if the EPA determines that environmental requirements under the MPRSA have not been met.

b. Location and Configuration of Modified Ocean Dredged Material Disposal Site

This action proposes the modification of the ocean dredged material site offshore of Charleston, South Carolina. The location of the proposed modified ocean dredged material disposal site is bounded by the coordinates, listed below. The proposed modification of the ODMDS will allow the EPA to adaptively manage the ODMDS to maximize its capacity, minimize the potential for mounding and associated safety concerns, potentially create hard bottom habitat and minimize the potential for any long-term adverse effects to the marine environment.

The coordinates for the site are, in North American Datum 83 (NAD 83):

Modified Charleston ODMDS

(A) 32°36.280′ N., 79°43.662′ W.
(B) 32°21.514′ N., 79°46.576′ W.
(C) 32°20.515′ N., 79°45.068′ W.
(D) 32°20.515′ N., 79°42.152′ W.

The proposed modified ODMDS is located in approximately 30 to 45 feet of water, and is located to approximately 6.0 nmi offshore. The proposed modified ODMDS would be 7.4 nmi^2 in size.

c. Management and Monitoring of the Site

The proposed modified ODMDS is expected to receive sediments dredged by the USACE to deepen and maintain the federally authorized navigation project at Charleston Harbor, South Carolina, and dredged material from other persons who have obtained a permit for the disposal of dredged material at the ODMDS. All persons using the ODMDS are required to follow a Site Management and Monitoring Plan (SMMP) for the ODMDS. The SMMP includes management and monitoring requirements to ensure that dredged materials disposed at the ODMDS are suitable for disposal in the ocean and that adverse impacts of disposal, if any, are addressed to the maximum extent practicable. The SMMP for the proposed modified ODMDS, in addition to the aforementioned, also addresses management of the ODMDS to ensure adverse mounding does not occur, promotes habitat creation where possible and to ensure that disposal events minimize interference with other uses of ocean waters in the vicinity of the proposed modified ODMDS. The SMMP has been publically review and is currently being finalized by the Charleston Ocean ODMDS Task Force. The Task Force is made up of members representing EPA, USACE, National Marine Fisheries Service (NMFS), Bureau of Environmental Management (BOEM), the South Carolina State Ports Authority (SCSPA), the South Carolina Department of Natural Resources (SCDNR), and the South Carolina Department of Health and Environmental Control.

d. MPRSA Criteria

In proposing to modify the ODMDS, the EPA assessed the proposed modified ODMDS according to the criteria of the MPRSA, with particular emphasis on the general and specific regulatory criteria of 40 CFR part 228, to determine whether the proposed site designations satisfy those criteria. The EPA's *Final Environmental Assessment for Modification of an Ocean Dredged Material Disposal Site Offshore Charleston, South Carolina, [April 2016] (EA),* provides an extensive evaluation of the criteria and other related factors for the modification of the ODMDS.

General Criteria (40 CFR 228.5)

(1) Sites must be selected to minimize interference with other activities in the marine environment, particularly avoiding areas of existing fisheries or shellfisheries, and regions of heavy commercial or recreational navigation (40 CFR 228.5(a)).

Dredged material disposal within the existing Charleston ODMDS has been confined to the eastern side of the designated site within a defined 4-mi² disposal zone to avoid impacts to live hardbottom. During this time, dredged material disposal at the site has not interfered with commercial or recreational navigation, commercial fishing, or sportfishing activities. The proposed modification of the site boundaries to the north, east, and south is not expected to change these conditions. The proposed action avoids major fisheries, natural and artificial reefs, and areas of recreational use. Modification of the site to the east will minimize interference with shellfisheries by avoiding areas located primarily to the west of the ODMDS that are frequently used by commercial shrimpers. Construction of the berm will provide an additional approximately 427 acres of hardbottom habitat and will protect existing hardbottom habitat by minimizing sediment transport. There will be a 3000-foot buffer along the northern perimeter of the ODMDS where dumping will not occur. Modeling results indicate that this buffer should be sufficient to protect probable hardbottom areas to the north of the site.

(2) Sites must be situated such that temporary perturbations to water quality or other environmental conditions during initial mixing caused by disposal operations would be reduced to normal ambient levels or undetectable contaminant concentrations or effects before reaching any beach, shoreline, marine sanctuary, or known geographically limited fishery or shellfishery (40 CFR 228.5(b)).

The proposed ODMDS modification area will be used for disposal of suitable dredged material as determined by Section 103 of the MPRSA. Based on the USACE and EPA sediment testing and evaluation of dredged maintenance material and proposed new work material from the Post 45 deepening project, disposal is not expected to have any long-term impact on the water quality. Results of the maximum concentration found outside the disposal area after 4 hours of mixing for each dredging unit was zero. Based on these results, water quality perturbations that could reach any beach, shoreline, marine sanctuary, or known geographically-limited fishery or shellfishery are not expected. The western edge of the proposed modified ODMDS is approximately 7 miles offshore such that prevailing current will not transport dredged material to beaches. Water quality perturbations caused by dispersion of disposal material will be reduced to ambient conditions before reaching any environmentally sensitive areas.

(3) The sizes of disposal sites will be limited in order to localize for identification and control any immediate adverse impacts, and to permit the implementation of effective monitoring and surveillance to prevent adverse long-range impacts. Size, configuration, and location are to be determined as part of the disposal site evaluation (40 CFR 228.5(d)).

The location, size, and configuration of the proposed modified ODMDS provides long-term capacity, site management, and site monitoring while limiting environmental impacts to the surrounding area. Based on 25 years of projected new work and maintenance dredged material disposal needs, it is estimated that the ODMDS modification area should accommodate approximately 66.5 mcy of dredged material in order to meet the long-term disposal needs of the area. The dump zone within the proposed ODMDS is estimated to have approximately 75 mcy of capacity. The capacity in the dump zone provides a reasonable amount of additional capacity to manage risk, account for future unknown disposal operations from private entities, and provides a margin of navigation safety. The remaining area within the boundaries of the existing 12 nmi² Charleston ODMDS (parallelogram) would be de-designated. The area to be de-designated is approximately 10.4 mi² (7.8 nmi²) in size and contains documented hardbottom habitat.

By adding 5.8 mi² (4.4 nmi²) to the existing ODMDS disposal zone, the total area of the modified Charleston ODMDS would be 9.8 mi² (7.4 nmi²), with a dump zone area of 5.1 mi² (3.9 nmi²). An ODMDS of this size and capacity will provide a long-term ocean disposal option for the region.

To help protect nearby hardbottom habitat from being buried by sediment migrating from the ODMDS, a U-shaped berm along the east, south, and west perimeters of the modified ODMDS will be constructed. Although there is probable hardbottom located north of the proposed modified ODMDS, no berm will be constructed along the northern boundary. However, there will be a 3000-foot buffer along the northern perimeter of the ODMDS where dumping will not occur. Fate modeling indicates that this buffer should be sufficient to protect probable hardbottom areas to the north of the site.

When determining the size of the proposed site, the ability to implement

effective monitoring and surveillance programs, among other things, was factored in to ensure that navigational safety would not be compromised and to prevent mounding of dredged material, which could result in adverse wave conditions. A site management and monitoring program will be implemented to determine if disposal at the site is significantly affecting adjacent areas and to detect the presence of long-term adverse effects. At a minimum, the monitoring program will consist of bathymetric surveys, sediment grain size analysis, chemical analysis of constituents of concern in the sediments, and a health assessment of the benthic community.

(4) EPA will, wherever feasible, designate ocean dumping sites beyond the edge of the continental shelf and other such sites where historical disposal has occurred (40 CFR 228.5(e)).

The continental slope is approximately 55 nmi offshore of Charleston. Disposal off the continental shelf (shelf break) was evaluated in detail the 1983 ODMDS Designation EIS document. In comparison to locating the site in the nearshore region, it was determined that monitoring and surveillance would be more difficult and expensive in the shelf break area because of the distance from shore to the deeper waters. Transporting material to and performing long-term monitoring of a site located off the continental shelf is not economically or operationally feasible.

The historically used ocean dumping site, Charleston ODMDS, is not located beyond the continental shelf. A portion of the proposed modified ODMDS encompasses an area previously designated for disposal.

Specific Criteria (40 CFR 228.6)

(1) Geographical Position, Depth of Water, Bottom Topography and Distance from Coast (40 CFR 228.6(a)(1)).

The proposed modified ODMDS is located on the shallow continental shelf, approximately 6 nmi offshore of Charleston, South Carolina. Water depths range from −30 to −45 feet (9 to 13 meters) with an overall average depth of −40 feet (12 meters). Characteristics of the South Atlantic Bight seafloor include low relief, relatively gentle gradients, and smooth bottom surfaces exhibiting physiographic features contoured by erosional processes. Sediments largely consist of fine to coarse sands. Some areas contain extensive coarse grains and shell hash. Fines were found to be typically less than 10%.

(2) Location in Relation to Breeding, Spawning, Nursery, Feeding, or Passage Areas of Living Resources in Adult or Juvenile Phases (40 CFR 228.6(a)(2)).

The proposed modified ODMDS is not located in exclusive breeding, spawning, nursery, feeding, or passage areas for adult or juvenile phases of living resources. The intensity of these activities within the vicinity of the ODMDS is seasonally variable, with peaks typically occurring in the spring and early fall for most commercially important finfish and shellfish species (USEPA 1983). The ODMDS is not located within North Atlantic right whale critical habitat.

(3) Location in Relation to Beaches and Other Amenity Areas (40 CFR 228.6(a)(3)).

The center of the proposed modified ODMDS is approximately 7 mi (6 nmi) from the nearest coastal beach. The site is approximately 3.1 mi (2.7 nmi) south of the nearest artificial reef. No significant impacts to beaches or amenity areas associated with the existing ODMDS have been documented.

(4) Types and Quantities of Wastes Proposed to be Disposed of, and Proposed Methods of Release, including Methods of Packing the Waste, if any (40 CFR 228.6(a)(4)).

Only material that meets EPA Ocean Dumping Criteria in 40 CFR 220–229 will be placed in the proposed site. Average annual maintenance material is approximately 1.4 mcy and approximately 31.2 mcy of new work material is expected from the Charleston Harbor Deepening Project. Sediments dredged from Charleston Harbor and the entrance channel are a mixture of silt, sand, and rock. Hopper dredge, barge, and scow combinations are the usual vehicles of transport for the dredged material. None of the material is packaged in any manner.

(5) Feasibility of Surveillance and Monitoring (40 CFR 228.6(a)(5)).

The EPA expects monitoring and surveillance at the proposed modified ODMDS to be feasible and readily performed from ocean or regional class research vessels. The proposed modified ODMDS is of similar size, water depth and distance from shore as are a majority of the ODMDSs within the Southeastern United States which are routinely monitored. The EPA will ensure monitoring of the site for physical, biological and chemical attributes as well as for potential impacts beyond the site boundaries. Bathymetric surveys will be conducted routinely as defined in the SMMP, contaminant levels in the dredged material will be analyzed prior to dumping, and the benthic infauna and epibenthic organisms will be monitored every 10 years, as funding allows.

(6) Dispersal, Horizontal Transport and Vertical Mixing Characteristics of the Area, including Prevailing Current Direction and Velocity, if any (40 CFR 228.6(a)(6)).

A study conducted by EPA from 2013–2015 indicated that currents in the vicinity of the Charleston ODMDS tend to have a significant tidal component with predominant currents in the cross-shore direction. The depth-averaged median current velocity was 18 cm/sec (0.6 ft/sec) with 90% of the measurements below 30 cm/sec (1.1 ft/sec). Wind-driven circulation is the most important factor in controlling sediment transport. Strong winds generate waves that steer the sediment on the seabed and create large nearbed suspended sediment concentrations. Suspended sediment transport is directed mainly NE and SW in response to local wind climate and the wind-generated alongshore flows. LTFATE and MPFATE modeling results over a 25-year period indicate depths of sediment deposited outside the boundaries of the ODMDS will not exceed the 5 cm deposition contour guidance provided by EPA.

(7) Existence and Effects of Current and Previous Discharges and Dumping in the Area (including Cumulative Effects) (40 CFR 228.6(a)(7)).

Previous disposal of dredged material resulted in temporary increases in suspended sediment concentrations during disposal operations, localized mounding within the site, burial of benthic organisms within the site, changes in the abundance and composition of benthic assemblages, and changes in the sediment composition from sandy sediments to finer-grained silts. Impacts to live bottoms were identified in the western portion of the 12-mi^2 ODMDS.

Short-term, long-term, and cumulative effects of dredged material disposal in the proposed ODMDS modification area would be similar to those for the existing ODMDS.

(8) Interference with Shipping, Fishing, Recreation, Mineral Extraction, Desalination, Fish and Shellfish Culture, Areas of Special Scientific Importance and Other Legitimate Uses of the Ocean (40 CFR 228.6(a)(8)).

The proposed modified ODMDS is not expected to interfere with shipping, fishing, recreation or other legitimate uses of the ocean. Commercial navigation, commercial fishing, and mineral extraction (sand mining) are the primary activities that may spatially overlap with disposal at the proposed

modified ODMDS. The proposed modified ODMDS avoids the National Oceanographic and Atmospheric Administration (NOAA) recommended vessel routes offshore Charleston, South Carolina, thereby avoiding conflict with commercial navigation.

Commercial fishing (shrimp trawling) occurs primarily to the west of the proposed modified ODMDS.

The likelihood of direct interference with these activities is low, provided there is close communication and coordination among users of the ocean resources. The EPA is not aware of any plans for desalination plants, or fish and shellfish culture operations near the proposed modified ODMDS at this time. The proposed modified ODMDS is not located in areas of special scientific importance.

(9) *The Existing Water Quality and Ecology of the Sites as Determined by Available Data or Trend Assessment of Baseline Surveys (40 CFR 228.6(a)(9)).*

Water quality of the existing site is typical of the Atlantic Ocean. Water and sediment quality analyses conducted in the study area and experience with past disposals in the Charleston ODMDS have not identified any adverse water quality impacts from ocean disposal of dredged material. The site supports benthic and epibenthic fauna characteristic of the South Atlantic Bight. Neither the pelagic (mobile) or benthic (non-mobile) communities should sustain irreparable harm due to their widespread occurrence off the South Carolina coast.

(10) *Potentiality for the Development or Recruitment of Nuisance Species in the Disposal Site (40 CFR 228.6(a)(10)).*

Nuisance species, considered as any undesirable organism not previously existing at a location, have not been observed at, or in the vicinity of, the proposed modified ODMDS. They are either transported to or recruited to the site because the disposal of dredged material creates an environment where they can establish. Habitat conditions have changed somewhat at the Charleston ODMDS because of the disposal of some silty material on what was predominately sandy sediments. While it can be expected that organisms will become established at the site which were not there previously, this new community is not regarded as a nuisance, or "undesirable," community.

(11) *Existence at or in Close Proximity to the Site of any Significant Natural or Cultural Feature of Historical Importance (40 CFR 228.6(a)(11)).*

No significant cultural features have been identified at, or in the vicinity of, the proposed modified ODMDS at this time. Surveys conducted in 2012–2013 did not identify any cultural features of historical importance. The EPA has coordinated with South Carolina's State Historic Preservation Officer (SHPO) to identify any cultural features. The SHPO concurred with the EPA's determination that the proposed modification of the ODMDS will have no effect on cultural resources listed, or eligible for listing on the National Register of Historic Places as no such resources exist in the project area.

III. Environmental Statutory Review—National Environmental Policy Act (NEPA); Magnuson-Stevens Act (MSA); Marine Mammal Protection Act (MMPA); Coastal Zone Management Act (CZMA); Endangered Species Act (ESA); National Historic Preservation Act (NHPA)

a. NEPA

Section 102 of the National Environmental Policy Act of 1969, as amended (NEPA), 42 U.S.C. 4321 to 4370f, requires Federal agencies to prepare an Environmental Impact Statement (EIS) for major federal actions significantly affecting the quality of the human environment. NEPA does not apply to EPA designations of ocean disposal sites under the MPRSA because the courts have exempted the EPA's actions under the MPRSA from the procedural requirements of NEPA through the functional equivalence doctrine. The EPA has, by policy, determined that the preparation of NEPA documents for certain EPA regulatory actions, including actions under the MPRSA, is appropriate. The EPA's "Notice of Policy and Procedures for Voluntary Preparation of NEPA Documents," (Voluntary NEPA Policy), 63 FR 58045, (October 29, 1998), sets out both the policy and procedures the EPA uses when preparing such environmental review documents. The EPA's primary voluntary NEPA document for expanding the ODMDS is the *Final Environmental Assessment for Modification of an Ocean Dredged Material Disposal Site Offshore Charleston, South Carolina, [April 2016]* (FEA), prepared by the EPA in cooperation with the USACE. Anyone desiring a copy of the FEA may obtain one from the addresses given above. A draft of this document was released for public review in December, 2015. The public comment period on the Draft EA closed on January 19, 2016.

The EPA received 8 comment letters on the DEA. There were two main concerns expressed in those letters: (1) Potential movement of disposed material impacting areas such as habitat, fisheries and sand borrow areas; and (2) monitoring associated with the SMMP. No objections to the ODMDS modification were received. The EPA and USACE responded to all comments and they are provided in the FEA. The FEA and its Appendices, which are part of the docket for this action, provide the threshold environmental review for modification of the ODMDS. The information from the FEA is used above, in the discussion of the ocean dumping criteria.

The proposed action discussed in the FEA is the permanent designation of a modified ODMDS offshore Charleston, South Carolina. The purpose of the proposed action is to provide an environmentally acceptable option for the ocean disposal of dredged material. The need for the modified ODMDS is based on a demonstrated USACE need for ocean disposal of dredged material from the Charleston Harbor Federal Navigation Project, and the proposed Charleston Harbor Deepening Project (also known as Post 45). The need for ocean disposal for these and other projects, and the suitability of the material for ocean disposal, will be determined on a case-by-case basis as part of the USACE process of issuing permits for ocean disposal for private/federal actions and a public review process for its own actions. This will include an evaluation of disposal alternatives.

For the proposed modified ODMDS, the USACE and the EPA would evaluate all federal dredged material disposal projects pursuant to the EPA criteria set forth in the Ocean Dumping Regulations (40 CFR 220–229) and the USACE regulations (33 CFR 209.120 and 335–338). The USACE issues Marine Protection, Research, and Sanctuaries Act (MPRSA) permits to applicants for the transport of dredged material intended for disposal after compliance with regulations is determined. The EPA has the right to disapprove any ocean disposal project if, in its judgment, all provisions of MPRSA and the associated implementing regulations have not been met.

The FEA discusses the need for the proposed modified ODMDS and examines ocean disposal site alternatives to the proposed actions. The need for expanding the current ODMDS is based on future capacity modeling, historical dredging volumes, estimated dredging volumes for proposed projects, and limited capacity of upland CDFs in the area. Non-ocean disposal options have been examined in the FEA based on information provided by the USACE in the Dredged Material Management Plans for Charleston Harbor.

The following ocean disposal alternatives were considered but eliminated from detailed evaluation in the FEA:

1. Alternative 2: Use Existing ODMDS and Remove Disposal Zone Restriction

Alternative 2 is the removal of the current disposal zone restriction and allowing use of the entire ODMDS for disposal. This alternative would require further delineation and assessment of live-bottom habitat within the western portion of the site or the acceptance of direct impacts to such habitat from disposal. Further habitat assessment could result in the need for multiple disposal zones to avoid direct impacts. From a site management and disposal operations perspective, a non-contiguous site would be more difficult and costly to manage and monitor. Use of the western portion of the site also has the potential for impacting shrimp trawling grounds.

2. Alternative 3: New ODMDS North of the Entrance Channel

Alternative 3 proposes to designate a new ODMDS north of the entrance channel of the same size and configuration as Alternative 1 (Table 2.2–2, Figure 2–6). This site is located approximately 16 mi (14 nmi) offshore of the entrance to Charleston Harbor and 1.6 mi (1.4 nmi) east of the anchorage area.

No hardbottom or cultural resource surveys have been conducted in this area. Therefore, the presence of hardbottom and cultural resources within and adjacent to this site are unknown and would require additional surveys. As mentioned in Section 2.1–1, shrimpers appear to generally work within and on the edge of the entrance channel out to near the ODMDS disposal zone, and then they either head north or south and loop back inland (Mark Messersmith, Charleston District, USACE pers. corr. with Wayne Magwood, President, Magwood Seafood). Based on this information, it appears this site is outside of primary shrimping grounds.

The predominant net sediment transport is generally from NE to SW and is influenced by local and regional wind and current patterns as well as periodic storm events. Therefore, disposal of dredged material in a site located on the north side of the entrance channel may result in sediment transport into the channel. Alternative 3 is 7 mi (6 nmi) farther offshore than Alternative 1, which would significantly increase transit times and fuel costs. This site is also in close proximity to the anchorage area, which could impact transit routes to and from the ODMDS. Primarily due to concerns about dredged material being deposited back into the entrance channel, increased transportation costs, and the need for additional surveys to assess hardbottom and cultural resources, this alternative is eliminated from further consideration for this proposed action.

3. Alternative 4: Disposal Off the Continental Shelf

The continental slope is approximately 55 nmi offshore of Charleston. Disposal off the continental shelf (shelf break) was evaluated in detail the 1983 ODMDS Designation EIS document. In comparison to locating the site in the nearshore region, it was determined that monitoring and surveillance would be more difficult and expensive in the shelf break area because of the distance from shore to the deeper waters. There would be a likelihood of a higher frequency of rough weather that could hinder disposal and monitoring operations.

Alternative 4 was considered during initial alternatives analysis; however, transporting material to and performing long-term monitoring of a site located off the continental shelf is not economically or operationally feasible; therefore, disposal off the continental shelf is eliminated from further consideration for this proposed action.

4. Alternative 5: Upland Disposal

Upland disposal is an important option for maintenance dredged material removed from the federal navigation channel. To ensure that adequate project depth is maintained throughout the navigation channel within Charleston Harbor, USACE uses several upland placement areas to meet dredged material disposal needs within certain reaches of the harbor. The sites are adjacent to the Cooper River in the vicinity of the shoaling areas, allowing for the economical transfer of dredged material from the shoaled areas. The upland placement areas require the maintenance and construction of dikes to contain dredged material and monitoring to provide conformance with environmental requirements. Dredged material is pumped into the sites and the excess surface water is clarified by ponding and then released through weir structures.

Upland and ocean disposal site capacity were evaluated as part of the Charleston Harbor Post 45 Deepening IFR/EIS. Upland sites will continue to be used and dikes will need to be raised to provide additional capacity at these sites. Based on recent analysis conducted in 2014, assuming on-going dike raising efforts continue, there is sufficient capacity for at least the next 20 years. However even with dike raising, it was determined that additional ocean disposal capacity will be needed to accommodate continued dredged material operations and maintenance in the future.

Alternative 5 was considered during initial alternatives analysis; however, even with dike raising efforts upland capacity and land for new disposal areas are limited. Although upland disposal has been eliminated from further evaluation in this EA, it remains an option for disposal of maintenance material from various reaches when economically feasible and capacity is available or if dredged material is unsuitable for ocean disposal. Each dredging project will be evaluated separately to determine if upland disposal is an option. A MPRSA Section 103 evaluation was conducted on the new work material, and it was determined to be suitable for ocean disposal. Therefore, dredged material generated from the deepening project is expected to be disposed at the ODMDS.

5. Alternative 6: Beach Nourishment, Nearshore Placement, and Other Beneficial Uses

The Federal Government has placed considerable emphasis on using dredged material in a beneficial manner. Statutes such as the Water Resources Development Acts of 1992, 1996, 2000, and 2007 demonstrate that beneficial use has been a Congressional priority. USACE has emphasized the use of dredged material for beneficial use through such regulations as 33 CFR part 335, ER 1105–2–100, and ER 1130–2–520 and by Policy Guidance Letter No. 56. ER 1105–2–100 states that "all dredged material management studies include an assessment of potential beneficial uses for environmental purposes including fish and wildlife habitat creation, ecosystem restoration and enhancement and/or hurricane and storm damage reduction." In accordance with ER 1105–2–100, USACE is considering beneficial use of dredged material as part of the Charleston Harbor Post 45 Project. Potential beneficial uses include:

- ODMDS berm creation
- Reef placement
- Crab Bank enhancement
- Shutes Folly enhancement
- Nearshore placement off Morris Island
- Protection of Ft. Sumter

Details on volumes and construction methods for other beneficial use projects will be evaluated during the pre-construction, engineering, and design (PED) phase.

Alternative 6 was considered during initial alternatives analysis; however, the majority of the material dredged from the Charleston Harbor Navigation Project is not suitable for beach nourishment, nearshore placement, or other beneficial uses. This alternative alone does not meet the project need for additional disposal capacity for material dredged during the proposed deepening project or annual maintenance material. Therefore, this alternative is eliminated from further consideration for this proposed action. However, a portion of rock material dredged from the entrance channel is proposed to be used to construct the berms along the perimeter of the Alternative 1 site to minimize sediment transport from the site. The added benefit associated with berm construction includes hardbottom habitat creation.

6. No Action Alternative

The No Action Alternative is defined as not modifying the existing Charleston ODMDS disposal zone pursuant to MPRSA Section 102. The current capacity of the existing 4-mi^2 disposal zone within the ODMDS is approximately 29.5 mcy (USACE 2014b). If no action is taken, the estimated volume of dredge material from the Post 45 deepening project that is slated for ocean disposal will fill the existing Charleston ODMDS almost to capacity. There would not be enough capacity left for disposal of O&M projects that are expected to generate approximately 1.4 mcy of dredge material per year. The No Action Alternative could result in limiting the long-term use of the site and the amount of dredged material that could be removed from the Charleston Harbor navigation channels and berths per dredging event. This, in turn, could impact operations by restricting vessel drafts and access to areas that were unable to be dredged to authorized project depths. The No Action Alternative fails to fulfill the need and objective to provide a long-term ocean disposal option for suitable dredged material generated from new projects and maintenance projects in support of the Charleston Harbor Federal Navigation Project and other local users. The availability of suitable ocean disposal sites to support ongoing navigation channel maintenance and capital improvement projects is essential for continued efficient commerce in the region. The No Action Alternative does not meet the proposed action's purpose and need. However, it was evaluated in the FEIS as a basis to compare the effects of the other alternatives considered.

7. Preferred Alternative: Modification of the Existing Charleston ODMDS

The proposed ODMDS modification consists of the addition of a 5.8-mi^2 area (4.4 nmi^2) along the northern, eastern, and southern boundaries of the existing Charleston ODMDS disposal zone. This area would be added to the existing 4-mi^2 (3 nmi^2) disposal zone and would be designated for disposal of dredged material from the future harbor deepening projects and routine maintenance material from the Charleston Harbor Navigation Project and other local users. The new Charleston ODMDS would have a total area comprising 9.8 mi^2. Within the larger ODMDS, a dump zone is proposed that will serve as the boundaries that ocean dumping will occur in. This dump zone within the ODMDS was modeled using Long Term Fate and Multiple Placement Fate models. The EPA also proposes the de-designation of the remaining area within the boundaries of the existing 12 nmi^2 Charleston ODMDS (parallelogram) located primarily in the western portion of the site that is not included in the disposal zone or the proposed modification area. The area to be de-designated is approximately 10.4 mi^2 (7.8 nmi^2) in size and contains documented hardbottom habitat.

The Final EA presents the information needed to evaluate the suitability of ocean disposal areas for final designation use and is based on a series of disposal site environmental studies. The environmental studies and final designation are being conducted in accordance with the requirements of MPRSA, the Ocean Dumping Regulations, and other applicable Federal environmental legislation.

b. MSA

The EPA integrated the essential fish habitat (EFH) assessment with the EA, pursuant to Section 305(b), 16 U.S.C. 1855(b)(2), of the Magnuson-Stevens Act, as amended (MSA), 16 U.S.C. 1801 to 1891d, and submitted that assessment to the National Marine Fisheries Service (NMFS) on December 4, 2015. The NMFS responded via letter that they have no comments on the proposed project.

CZMA

Pursuant to an Office of Water policy memorandum dated October 23, 1989, the EPA has evaluated the proposed site designations for consistency with the State of South Carolina's (the State) approved coastal management program. The EPA has determined that the designation of the proposed site is consistent to the maximum extent practicable with the State coastal management program, and submitted this determination to the State for review in accordance with the EPA policy. The State conditionally concurred with this determination on February 17, 2016. The EPA has taken the State's comments into account in preparing the FEA for the site, in determining whether the proposed site should be designated, and in determining whether restrictions or limitations should be placed on the use of the site, if they are designated.

ESA

The Endangered Species Act, as amended (ESA), 16 U.S.C. 1531 to 1544, requires Federal agencies to consult with NMFS and the U.S. Fish and Wildlife Service (USFWS) to ensure that any action authorized, funded, or carried out by the Federal agency is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of any critical habitat. The EPA incorporated a Biological Assessment (BA) into the EA to assess the potential effects of expanding the Charleston ODMDS on aquatic and wildlife species and submitted that document to the NMFS and USFWS on December 4, 2016. The EPA concluded that the proposed project would not adversely affect any threatened or endangered species, nor would it adversely modify any designated critical habitat. The USFWS concurred on the EPA's finding that the proposed action is not likely to adversely affect listed endangered or threatened species under the jurisdiction of the USFWS. The NMFS concluded the proposed action is not likely to adversely affect listed species under their jurisdiction.

c. NHPA

The USACE and the EPA initiated consultation with the State of South Carolina's Historic Preservation Officer (SHPO) on December 4, 2015, to address the National Historic Preservation Act, as amended (NHPA), 16 U.S.C. 470 to 470a–2, which requires Federal agencies to take into account the effect of their actions on districts, sites, buildings, structures, or objects, included in, or eligible for inclusion in the National Register of Historic Places (NRHP). In a letter dated January 6, 2016, the SHPO determined that no properties listed in or eligible for listing in the National Register of Historic Places will be affected by the project.

IV. Statutory and Executive Order Reviews

This rulemaking proposes the designation of a modified ODMDS pursuant to Section 102 of the MPRSA. This proposed action complies with applicable executive orders and statutory provisions as follows:

a. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This proposed action is not a "significant regulatory action" under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

b. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b). This proposed site designation, does not require persons to obtain, maintain, retain, report, or publicly disclose information to or for a Federal agency.

c. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires Federal agencies to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impacts of this rule on small entities, small entity is defined as: (1) A small business defined by the Small Business Administration's size regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. The EPA determined that this proposed action will not have a significant economic impact on small entities because the proposed rule will only have the effect of regulating the location of site to be used for the disposal of dredged material in ocean waters. After considering the economic impacts of this proposed rule, I certify that this action will not have a significant economic impact on a substantial number of small entities.

d. Unfunded Mandates Reform Act

This proposed action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act (UMRA) of 1995, 2 U.S.C. 1531 to 1538, for State, local, or tribal governments or the private sector. This action imposes no new enforceable duty on any State, local or tribal governments or the private sector. Therefore, this action is not subject to the requirements of sections 202 or 205 of the UMRA. This action is also not subject to the requirements of section 203 of the UMRA because it contains no regulatory requirements that might significantly or uniquely affect small government entities. Those entities are already subject to existing permitting requirements for the disposal of dredged material in ocean waters.

e. Executive Order 13132: Federalism

This proposed action does not have federalism implications. It does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among various levels of government, as specified in Executive Order 13132. Thus, Executive Order 13132 does not apply to this action. In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between the EPA and State and local governments, the EPA specifically solicited comments on this proposed action from State and local officials.

f. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This proposed action does not have tribal implications, as specified in Executive Order 13175 because the modification of the Charleston ODMDS will not have a direct effect on Indian Tribes, on the relationship between the federal government and Indian Tribes, or on the distribution of power and responsibilities between the federal government and Indian Tribes. Thus, Executive Order 13175 does not apply to this action. The EPA specifically solicits additional comments on this proposed action from tribal officials.

g. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under Section 5–501 of the Executive Order has the potential to influence the regulation. This proposed action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks. The proposed action concerns the modification of the Charleston ODMDS and only has the effect of providing a designated location for ocean disposal of dredged material pursuant to Section 102(c) of the MPRSA. However, we welcome comments on this proposed action related to this Executive Order.

h. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This proposed action is not subject to Executive Order 13211, "Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355) because it is not a "significant regulatory action" as defined under Executive Order 12866. However, we welcome comments on this proposed action related to this Executive Order.

i. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104–113, 12(d) (15 U.S.C. 272), directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus bodies. The NTTAA directs the EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This proposed action includes environmental monitoring and measurement as described in EPA's proposed SMMP. The EPA will not require the use of specific, prescribed analytic methods for monitoring and managing the designated ODMDS. The Agency plans to allow the use of any method, whether it constitutes a voluntary consensus standard or not, that meets the monitoring and measurement criteria discussed in the proposed SMMP. The EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to

explain why such standards should be used in this proposed action.

j. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low Income Populations

Executive Order 12898 (59 FR 7629) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. The EPA determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. The EPA has assessed the overall protectiveness of modifying the Charleston ODMDS against the criteria established pursuant to the MPRSA to ensure that any adverse impact to the environment will be mitigated to the greatest extent practicable. We welcome comments on this proposed action related to this Executive Order.

List of Subjects in 40 CFR Part 228

Environmental protection, Water pollution control.

Authority: This action is issued under the authority of Section 102 of the Marine Protection, Research, and Sanctuaries Act, as amended, 33 U.S.C. 1401, 1411, 1412.

Dated: June 22, 2016.

Heather McTeer Toney,

Regional Administrator, Region 4.

For the reasons set out in the preamble, the EPA proposes to amend chapter I, title 40 of the Code of Federal Register as follows:

PART 228—CRITERIA FOR THE MANAGEMENT OF DISPOSAL SITES FOR OCEAN DUMPING

■ 1. The authority citation for part 228 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418.

■ 2. Section 228.15 is amended by revising paragraphs (h)(5)(i) through (iii) and (vi) to read as follows:

§ 228.15 Dumping sites designated on a final basis.

* * * * *

(h) * * *

(5) * * *

(i) *Location:* 32°36.280′ N., 79°43.662′ W.; 32°21.514′ N., 79°46.576′ W.; 32°20.515′ N., 79°45.068′ W.; 32°20.515′ N., 79°42.152′ W.

(ii) *Size:* Approximately 7.4 square nautical miles in size.

(iii) *Depth:* Ranges from approximately 30 to 45 feet (9 to 13.5 meters).

* * * * *

(vi) *Restrictions:* (A) Disposal shall be limited to dredged material from the Charleston, South Carolina, area;

(B) Disposal shall be limited to dredged material determined to be suitable for ocean disposal according to 40 CFR 227.13;

(C) Disposal shall be managed by the restrictions and requirements contained in the currently-approved Site Management and Monitoring Plan (SMMP);

(D) Monitoring, as specified in the SMMP, is required.

* * * * *

[FR Doc. 2016–16584 Filed 7–12–16; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 75

RIN 0991–AC06

Health and Human Services Grants Regulation

AGENCY: Department of Health and Human Services; Office of the Assistant Secretary for Financial Resources, Division of Grants, Office of Grants Policy, Oversight, and Evaluation.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice of proposed rulemaking (NPRM) proposes changes to the Department of Health and Human Services' (HHS) adoption of the Office of Management and Budget's (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards ("Uniform Administrative Requirements") published on December 19, 2014 (79 FR 75871) and the technical amendments published by HHS on January 20, 2016 (81 FR 3004). HHS codified the OMB language, with noted modifications as explained in the preamble to the December promulgation, in 45 CFR part 75. The HHS-specific modifications to the Uniform Administrative Requirements adopted prior regulatory language that was not in conflict with OMB's language, and provided additional guidance to the regulated community. Unlike all of the other modifications to the Uniform Administrative Requirements, these proposed changes, although based on existing law or HHS policy, were not previously codified in regulation. This NPRM seeks comments on these important proposed regulatory changes.

DATES: To be assured consideration, comments must be received at the address provided below, no later than 5 p.m. on August 12, 2016.

ADDRESSES: In commenting, please refer to file code 0991–AC06. Because of staff and resource limitations, comments must be submitted electronically to *www.regulations.gov.* Follow the "Submit a comment" instructions.

FOR FURTHER INFORMATION CONTACT: Dr. Audrey Clarke at HHS at 202–720–1908.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including personally identifiable or confidential business information that is included in a comment. We post all comments received before the end of the comment period on the following Web site as soon as possible after they have been received: *http://regulations.gov.* Follow the search instructions on that Web site to view the public comments.

Background

This NPRM proposes changes to the HHS's adoption of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards published on December 19, 2014 (79 FR 75871) and the technical amendments published by HHS on January 20, 2016 (81 FR 3004). HHS codified the OMB language, with noted modifications, in 45 CFR part 75. Unlike all of the other modifications to the Uniform Administrative Requirements, these proposed changes, although based on existing law or HHS policy, were not previously codified in regulation. This NPRM seeks comments for these important regulatory changes.

In order to give full effect to other important government-wide initiatives, HHS is proposing further amendments at this time, which HHS intends to finalize as soon as possible. HHS proposes several additional changes to the codification of 2 CFR part 200 in 45 CFR part 75. First, HHS proposes to add language to 45 CFR 75.102, clarifying that the audit requirements and cost principles applicable to contracts and compacts awarded pursuant to the Indian Self Determination and Education Assistance Act (ISDEAA) are

governed by subparts E and F including § 75.505 Sanctions, enforceable through § 75.371 Remedies for noncompliance, and that certain other sections and subparts of these regulations do not apply to ISDEAA contracts and compacts.

Notably, the ISDEAA itself specifies that contracts and compacts awarded pursuant to the ISDEAA are subject to the Single Audit Act and OMB Circulars A–133, A–87, and A–122 and that ISDEAA contracts are not subject to federal grant and cooperative agreement requirements. 25 U.S.C. 450c(f), 458aaa–5(c). In order to clarify how the Uniform Administrative Requirements interact with the prior-enacted Federal statute, and to minimize confusion regarding applicability, HHS has determined that this clarification is required. This will additionally ensure that Indian tribes and tribal organizations are fully apprised of their rights and responsibilities. Although HHS considers this amendment to be a requirement of existing statute and regulation, HHS proposes this change with notice and an opportunity for comment to ensure that the regulated community is aware of this clarification.

In addition, HHS proposes to add language to clarify the meaning of disallowed cost as used in 25 U.S.C. 450j–1(f) to reflect that the meaning must adhere to the audit requirements of 45 CFR part 75, subpart F. Because subpart F applies to ISDEAA contracts and compacts, and the ISDEAA contains a stringent time limitation on certain claims pursuant to the Single Audit Act Amendments of 1996 (31 U.S.C. 7501–7507), HHS proposes to clarify that the scope of the time limitation applies only to cost disallowances arising under such Act, and not to other claims or disallowances identified through other audits or investigations. Without the addition of this clarifying language a different interpretation of the time limitation (which has been adopted in a few isolated judicial and administrative cases) would place additional administrative burdens on the Indian Health Service and entities holding ISDEAA contracts and compacts by compelling the government and the entities to perform burdensome and intrusive program compliance reviews in addition to the annual single audit required by the Single Audit Act. HHS believes the proposed language avoids imposing unreasonable burdens on the government and tribes and limits the need for yearly program compliance reviews.

Second, HHS proposes two changes to 45 CFR 75.300. First, HHS is codifying a prohibition in the provision of services of discrimination on the basis of age, disability, sex, race, color, national origin, religion, sexual orientation, or gender identity. This provision codifies for all HHS service grants what is already applicable for all HHS service contracts, as required by the HHS Acquisition Regulation (HHSAR) 352.237–74. The HHSAR provision makes explicit HHS's non-discrimination policy when obligating appropriations for solicitations, contracts and orders that deliver service under HHS's programs directly to the public. In order to ensure that this same provision applies equally to grants, HHS proposes an addition to make this explicit in the grants context.

This provision does not apply to funding under the Temporary Assistance for Needy Families Program (TANF) (title IV–A of the Social Security Act, 42, U.S.C. 601–619). The TANF statute, 42 U.S.C. 608(d), already identifies the nondiscrimination provisions that can be applied to TANF.

In addition, HHS is codifying its implementation of the decisions in *U.S.* v. *Windsor,* 570 U.S. ____(2013), 133 S.Ct. 2675 and *Obergefell* v. *Hodges,* 576 U.S. ____(2015), 135 S.Ct. 2584. The HHS codification of its interpretation of these Supreme Court decisions ensures that same-sex spouses, marriages, and households are treated the same as opposite-sex spouses, marriages, and households in terms of determining beneficiary eligibility or participation in grant-related activities.

Because these two codifications are being proposed for consistency with law and current HHS policy, HHS believes that they are non-controversial, but nonetheless requests public comment. Third, HHS is proposing to clarify the language currently codified in 45 CFR part 75 regarding the applicability to states of certain payment provisions. Because the current language applies the provisions of Treasury—State Cash Management Improvement Act agreements and default procedures codified at 31 CFR part 205 and TM 4A–2000, and such agreements may not contain specific provisions addressed by 45 CFR 75.305, HHS seeks to modify the language to ensure clarity. In doing so, to the extent that the governing provisions are silent as to the payment provisions described in the Uniform Administrative Requirements, there should be no effect on states, as they had been subject to these same provisions pursuant to 45 CFR 92.21. However, HHS proposes the clarification so that all states are aware of the necessity to, for example, expend refunds and rebates prior to drawing down additional grant funds.

Fourth, HHS is proposing to amend 45 CFR 75.365, related to restrictions on public access to records, in order to implement the President's Executive Order 13,642 (May 9, 2013), and corresponding law. See, *e.g., http://www.whitehouse.gov/the-press-office/2013/05/09/executive-order-making-open-and-machine-readable-new-default-government-,* and Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act of 2014, Public Law 113–76, Div. H, Sec. 527. HHS proposes to codify permissive authority for HHS awarding agencies to require public access to manuscripts, publications, and data produced under an award, consistent with applicable law.

Fifth, HHS is proposing to amend 45 CFR 75.414(c) to add a provision to restrict indirect cost rates for certain grants. It is long-standing HHS policy to restrict training grants to a maximum eight percent indirect cost rate. HHS proposes additionally to impose this same limitation on foreign organizations and foreign public entities, which typically do not negotiate indirect cost rates. In the proposed rule, American University, Beirut, and the World Health Organization are exempted specifically from the indirect cost rate limitation because they are eligible for negotiated facilities and administration (F&A) cost reimbursement. This restriction on indirect costs, as indicated by 45 CFR 75.101, flows down to subawards and subrecipients.

Finally, HHS proposes a new selected item of cost for codification in the cost principles as 45 CFR 75.477, regarding shared responsibility payments. As HHS has already announced in policy for the Ryan White HIV/AIDS Program, any payments or assessments imposed on an individual or individuals pursuant to 26 U.S.C. 5000A(b) as a result of any failure to maintain minimum essential coverage as required by 26 U.S.C. 5000A(a), are not allowable costs under a grant. See HAB Policy Notice 13–04, at 2–3; *http://hab.hrsa.gov/manageyourgrant/pinspals/pcn1304privateinsurance.pdf.* Because this is a sound public policy requirement for all grants, not just the Ryan White HIV/AIDS Program grants, HHS proposes to codify this provision in the Uniform Administrative Requirements. Furthermore, HHS proposes to adopt the same stance with regard to payments for failure to offer health coverage to employees. Because the provision codified at 26 U.S.C. 4980H has not yet been enforced against any employers, HHS has not had the need previously to announce a stance on this issue. HHS does so now, and seeks comments from the public.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Ch. 3506; 5 CFR 1320 Appendix A.1), HHS reviewed this NPRM and determined that there are no new collections of information contained therein.

Regulatory Flexibility Act

The Regulatory Flexibility Act requires that an agency provide a final regulatory flexibility analysis or to certify that the rule will not have a significant economic impact on a substantial number of small entities. This NPRM aligns 45 CFR part 75 with various regulatory and statutory provisions, implements Supreme Court decisions, and codifies long-standing policies thus clarifying and enhancing the provisions in HHS's interim final guidance issued December 19, 2014, and amended on January 20, 2016. In order to ensure that the public receives the most value, it is essential that HHS grant programs function as effectively and efficiently as possible, and that there is a high level of accountability to prevent waste, fraud, and abuse. The proposed additions provide enhanced direction for the public and will not have a significant economic impact beyond HHS's current regulations.

Executive Order 12866 Determination

Pursuant to Executive Order 12866, HHS has designated this NPRM to be economically non-significant. This rule is not being treated as a "significant regulatory action" under section 3(f) of Executive Order 12866. Accordingly, the rule has not been reviewed by the Office of Management and Budget.

Unfunded Mandates Reform Act of 1995 Determination

Section 202 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act) (2 U.S.C. 1532) requires that covered agencies prepare a budgetary impact statement before promulgating a rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires covered agencies to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. HHS has determined that this NPRM will not result in expenditures by State, local, and tribal governments, or by the private sector, of $100 million or more in any one year. Accordingly, HHS has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

Executive Order 13132 Determination

HHS has determined that this NPRM does not have any Federalism implications, as required by Executive Order 13132.

Sylvia M. Burwell,

Secretary, Department of Health and Human Services.

List of Subjects in 45 CFR Part 75

Accounting, Administrative practice and procedure, Cost principles, Grant programs, Grant programs—health, Grants administration, Hospitals, Indians, Nonprofit organizations reporting and recordkeeping requirements, and State and local governments.

For the reasons set forth in the preamble, part 75 of title 45 of the Code of Federal Regulations is proposed to be amended as follows:

■ 1. The authority citation for 45 CFR part 75 continues to read as follows:

Authority: 5 U.S.C. 301.

■ 2. Amend § 75.101 by adding paragraph (f) to read as follows:

§ 75.101 Applicability.

* * * * *

(f) Section 75.300(c) does not apply to the Temporary Assistance for Needy Families Program (title IV–A of the Social Security Act, 42 U.S.C. 601–619).

■ 3. Amend § 75.102 by adding paragraph (e) to read as follows:

§ 75.102 Exceptions.

* * * * *

(e)(1) Indian tribes and tribal organizations carrying out a compact or contract under the ISDEAA must comply with Subpart E, Cost Principles, and Subpart F, Audit Requirements, including § 75.505 Sanctions, enforceable through § 75.371 Remedies for noncompliance. References to cost principles and audit requirements in the ISDEAA and its implementing regulations, including OMB Circulars A–87, A–122, and A–133 (which were superseded by 2 CFR 200), shall be deemed to be references to subparts E and F. Except for statutorily mandated grants added to a funding agreement in accordance with 42 CFR part 137, subpart F, certain sections of this part, applicable to grants and cooperative agreements, do not apply to ISDEAA contracts and compacts, including 45 CFR 75.111, 75.112, and 75.113 and subparts C and D.

(2) Cost disallowances to which the limitation on remedies under 25 U.S.C. 450j–1(f) applies shall include only disallowed costs that are identified through a Single Agency Audit conducted pursuant to the Single Audit Act and subject to the requirements of subpart F, and shall not include claims or disallowances identified through other audits or investigations.

■ 4. Amend § 75.300 by adding paragraphs (c) and (d) to read as follows:

§ 75.300 Statutory and national policy requirements.

* * * * *

(c) It is a public policy requirement of HHS that no person otherwise eligible will be excluded from participation in, denied the benefits of, or subjected to discrimination in the administration of HHS programs and services based on non-merit factors such as age, disability, sex, race, color, national origin, religion, gender identity, or sexual orientation. Recipients must comply with this public policy requirement in the administration of programs supported by HHS awards.

(d) In accordance with the Supreme Court decisions in *United States* v. *Windsor* and in *Obergefell* v. *Hodges,* all recipients must treat as valid the marriages of same-sex couples. This does not apply to registered domestic partnerships, civil unions or similar formal relationships recognized under state law as something other than a marriage.

■ 5. Revise § 75.305(a) to read as follows:

§ 75.305 Payment.

(a)(1) For states, payments are governed by Treasury-State CMIA agreements and default procedures codified at 31 CFR part 205 and TFM 4A–2000 Overall Disbursing Rules for All Federal Agencies.

(2) To the extent that Treasury-State CMIA agreements and default procedures do not address expenditure of program income, rebates, refunds, contract settlements, audit recoveries and interest earned on such funds, such funds must be expended before requesting additional cash payments.

* * * * *

■ 6. Revise § 75.365 to read as follows:

§ 75.365 Restrictions on public access to records.

Consistent with section 75.322 of this part, HHS awarding agencies may require recipients to permit public access to manuscripts, publications, and data produced under an award. However, no HHS awarding agency may place restrictions on the non-Federal entity that limit public access to the records of the non-Federal entity pertinent to a Federal award identified

in sections 75.361 through 75.364, except for protected personally identifiable information (PII) or when the HHS awarding agency can demonstrate that such records will be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) or controlled unclassified information pursuant to Executive Order 13556 if the records had belonged to the HHS awarding agency. The Freedom of Information Act (5 U.S.C. 552) (FOIA) does not apply to those records that remain under a non-Federal entity's control except as required under § 75.322. Unless required by Federal, state, local, or tribal statute, non-Federal entities are not required to permit public access to their records identified in sections 75.361 through 75.364. The non-Federal entity's records provided to a Federal agency generally will be subject to FOIA and applicable exemptions.

■ 7. In § 75.414(c)(1) add paragraphs (c)(1)(i) through (iii):

§ 75.414 Indirect (F&A) costs.

* * * * *

(c)(1) * * *

(i) indirect costs on training grants are limited to a fixed rate of eight percent of MTDC exclusive of tuition and related fees, direct expenditures for equipment, and subawards in excess of $25,000;

(ii) indirect costs on grants awarded to foreign organizations and foreign public entities and performed fully outside of the territorial limits of the U.S. may be paid to support the costs of compliance with federal requirements at a fixed rate of eight percent of MTDC exclusive of tuition and related fees, direct expenditures for equipment, and subawards in excess of $25,000; and,

(iii) negotiated indirect costs may be paid to the American University, Beirut, and the World Health Organization.

* * * * *

■ 8. Add § 75.477 to read as follows:

§ 75.477 Shared responsibility payments.

(a) *Payments for failure to maintain minimum essential health coverage.* Any payments or assessments imposed on an individual or individuals pursuant to 26 U.S.C. 5000A(b) as a result of any failure to maintain minimum essential coverage as required by 26 U.S.C. 5000A(a) are not allowable expenses under Federal awards from an HHS awarding agency.

(b) *Payments for failure to offer health coverage to employees.* Any payments or assessments imposed on an employer pursuant to 26 U.S.C. 4980H as a result of the employer's failure to offer to its full-time employees (and their dependents) the opportunity to enroll in minimum essential coverage under an eligible employer-sponsored plan are not allowable expenses under Federal awards from an HHS awarding agency.

[FR Doc. 2016–15014 Filed 7–12–16; 8:45 am]

BILLING CODE 4150–24–P

Notices

Federal Register
Vol. 81, No. 134
Wednesday, July 13, 2016

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Black Hills National Forest Advisory Board

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to re-establish the Black Hills National Forest Advisory Board.

SUMMARY: The U.S. Department of Agriculture (USDA), intends to re-establish the Black Hills National Forest Advisory Board (Board). In accordance with the provisions of the Federal Advisory Committee Act (FACA), the Board is being re-established to continue obtaining advice and recommendations on a broad range of forest issues such as forest plan revisions or amendments, forest health including fire management and mountain pine beetle infestations, travel management, forest monitoring and evaluation, recreation fees, and site-specific projects having forest wide implications.

FOR FURTHER INFORMATION CONTACT: Scott Jacobson, Committee Coordinator, USDA, Black Hills National Forest, by telephone: 605–673–9216, by fax: 605–673–9208, or by email: *sjjacobson@fs.fed.us.* Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Board is a non-scientific program advisory board established by the Secretary of Agriculture in 2003 to provide advice and counsel to the U.S. Forest Service, Black Hills National Forest, in the wake of increasingly severe and intense wild fires and mountain pine beetle epidemics.

The purpose of the Board is to provide advice and recommendations on a broad range of forest issues such as forest plan revisions or amendments, travel management, forest monitoring and evaluation, and site-specific projects having forest-wide implications. The Board also serves to meet the needs of the Recreation Enhancement Act of 2005 as a Recreation Resource Advisory Committee (RRAC) for the Black Hills of South Dakota. The Board provides timely advice and recommendations to the regional forester through the forest supervisor regarding programmatic forest issues and project-level issues that have forest-wide implications for the Black Hills National Forest.

The Board meets approximately ten times a year, with one month being a field trip, held in August and focusing on both current issues and the educational value of seeing management strategies and outcomes on the ground. This Board has been established as a truly credible entity and a trusted voice on forest management issues and is doing often astonishing work in helping to develop informed consent for forest management.

For years, the demands made on the Black Hills National Forest have resulted in conflicts among interest groups resulting in both forest-wide and site-specific programs being delayed due to appeals and litigation. The Board provides a forum to resolve these issues to allow for the Black Hills National Forest to move forward in its management activities. The Board is believed to be one of the few groups with broad enough scope to address all of the issues and include all of the jurisdictional boundaries.

Significant Contributions

The Board's most significant accomplishments include:

1. A 2004 report on the Black Hills Fuels Reduction Plan, a priority following the major fires including the 86,000 acre Jasper Fire in 2000;
2. A 2004 initial Off-Highway Vehicle Travel Management Subcommittee report;
3. A report on their findings regarding the thesis, direction, and assumptions of Phase II of our Forest Plan produced in 2005;
4. The Invasive Species Subcommittee Report in 2005 covering recommendations to better stop invasive species from infiltrating the Forest;
5. A final Travel Management Subcommittee Report in 2006 in which the Board made 11 recommendations regarding characteristics of a designated motor vehicle trail system, the basis for our initial work to prepare our Motor Vehicle Use Map in 2010–2011;
6. The Board's annual work to attract funding through grants based on the Collaborative Landscape Forest Restoration Program (CFLRP), a program of the Secretary of Agriculture *CFLR* Program to encourage the collaborative, science-based ecosystem restoration of priority forest landscapes;
7. A letter to the Secretary and the Chief of the Forest Service to work, restore and maintain open space for wildlife habitat and recreation needs like snowmobile trails; and
8. The annual reports to the Secretary detailing the Board's activities, issues, and accomplishments.

The Board is deemed to be among the most effective public involvement strategies in the Forest Service and continues to lead by example for Federal, State, and local government agencies working to coordinate and cooperate in the Black Hills of South Dakota and Wyoming.

Background

Pursuant to the Federal Advisory Committee Act (5 U.S.C. App. II), the Secretary of Agriculture intends to re-establish the Black Hills National Forest Advisory Board. The Board provides advice and recommendations on a broad range of forest planning issues and, in accordance with the Federal Lands Recreation Enhancement Act (Public Law 108–447 (REA)), more specifically will provide advice and recommendations on Black Hills National Forest recreation fee issues (serving as the RRAC for the Black Hills National Forest). The Board membership consists of individuals representing commodity interests, amenity interests, and State and local government.

The Board has been determined to be in the public interest in connection with the duties and responsibilities of the Black Hills National Forest. National forest management requires improved coordination among the interests and governmental entities responsible for land management decisions and the public that the agency serves.

Advisory Committee Organization

The Board consists of 16 members that are representative of the following interests (this membership is similar to the membership outlined by the Secure Rural Schools and Community Self Determination Act for Resource Advisory Committees (16 U.S.C. 500, *et seq.*)):

1. Economic development;
2. Developed outdoor recreation, off-highway vehicle users, or commercial recreation;
3. Energy and mineral development;
4. Commercial timber industry;
5. Permittee (grazing or other land use within the Black Hills area);
6. Nationally recognized environmental organizations;
7. Regionally or locally recognized environmental organizations;
8. Dispersed recreation;
9. Archeology or history;
10. Nationally or regionally recognized sportsmen's groups, such as anglers or hunters;
11. South Dakota State-elected offices;
12. Wyoming State-elected offices;
13. South Dakota or Wyoming county- or local-elected officials;
14. Tribal government elected or-appointed officials;
15. South Dakota State natural resource agency official; and
16. Wyoming State natural resource agency official.

The members of the Board will elect and determine the responsibilities of the Chairperson and the Vice-Chairperson. In the absence of the Chairperson, the Vice-Chairperson will act in the Chairperson's stead. The Forest Supervisor of the Black Hills National Forest serves as the Designated Federal Officer (DFO) under sections 10(e) and (f) of the Federal Advisory Committee Act (5 U.S.C. App. II).

Members will serve without compensation, but may be reimbursed for travel expenses while performing duties on behalf of the Board, subject to approval by the DFO.

Equal opportunity practices are followed in all appointments to the Board in accordance with USDA policies. To ensure that the recommendations of the Board have been taken into account the needs of diverse groups served by USDA, the membership shall include to the extent practicable, individuals with demonstrated ability to represent the needs of all racial and ethnic groups, women and men, and persons with disabilities.

Dated: July 5, 2016.

Gregory L. Parham,

Assistant Secretary for Administration.

[FR Doc. 2016–16586 Filed 7–12–16; 8:45 am]

BILLING CODE 3411–15–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Virginia Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a meeting of the Virginia Advisory Committee to the Commission will convene at 12:30 p.m. (EDT) on Wednesday, July 27, 2016 via conference call. The purpose of the planning meeting is for the Advisory Committee to discuss project planning and the selection of additional committee officers.

Interested members of the public may listen to the discussion by calling the following toll-free conference call number: 1–888–427–9411 and conference call ID code: 4954420. An open comment period will be provided to allow members of the public to make a statement as time allows. Please be advised that before placing them into the conference call, the conference call operator will ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at: 1–800–977–8339 and provide the operator with the conference call number: 1–888–427–9411 and conference call ID code: 4954420.

Members of the public are also invited to submit written comments; the comments must be received in the regional office by Monday, August 29, 2016. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, faxed to (202) 376–7548, or emailed to Evelyn Bohor at *ero@usccr.gov.* Persons who desire additional information may contact the Eastern Regional Office at (202) 376–7533.

Records and documents discussed during the meeting will be available for public viewing as they become available at: *https://database.faca.gov/committee/meetings.aspx?cid=279* and clicking on the "Meeting Details" and "Documents" links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *www.usccr.gov,* or to contact the Eastern Regional Office at the above phone number, email or street address.

Agenda

I. Welcome and Introductions
—Rollcall
Planning Meeting
—Discuss Project Planning
II. Other Business
Adjournment

DATES: Wednesday, July 27, 2016 at 12:30 p.m. (EDT).

ADDRESSES: The meeting will be held via teleconference:

Conference Call-in Number: 1–888–427–9411; *Conference Call ID code:* TDD: Dial Federal Relay Service 1–800–977–8339 and give the operator the above Conference Call-in number and Conference Call ID code: 4954420.

FOR FURTHER INFORMATION CONTACT: Ivy L. Davis, DFO, *ero@usccr.gov,* 202–376–7533

Dated: July 8, 2016.

David Mussatt,

Chief, Regional Programs Unit.

[FR Doc. 2016–16549 Filed 7–12–16; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of Industry and Security.

Title: Special Priorities Assistance.

OMB Control Number: 0694–0057.

Form Number(s): BIS–999.

Type of Request: Regular.

Burden Hours: 600 hours.

Number of Respondents: 1,200 respondents.

Average Hours per Response: 30 minutes per response.

Needs and Uses: The information collected from defense contractors and suppliers on Form BIS–999, Request for Special Priorities Assistance, is required for the enforcement and administration of special priorities assistance under the Defense Production Act, the Selective Service Act and the Defense Priorities and Allocation System regulation.

Affected Public: Businesses and other for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain benefits.

This information collection request may be viewed at *www.reginfo.gov*. Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to OIRA *Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: July 7, 2016.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2016–16475 Filed 7–12–16; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and opportunity for public comment.

Pursuant to Section 251 of the Trade Act 1974, as amended (19 U.S.C. 2341 *et seq.*), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of these firms contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[6/16/2016 through 7/1/2016]

Firm name	Firm address	Date accepted for investigation	Product(s)
Marlen Textiles, Inc	500 Orchard Street, New Haven, MO 63068.	6/16/2016	The firm is a manufacturer of economy fabrics used to make boat covers, tarps, furniture covers, awnings, tents and other products.
Infinity Valve and Supply, LLC	351 Griffin Road, Youngsville, LA 70592.	6/24/2016	The firm is a manufacturer of precision machines, fittings and components.
Suretank USA, LLC	2173 Coteau Road, Houma, LA 70364.	6/24/2016	The firm is a manufacturer of cargo baskets.
EnviroTech Molded Products, Inc.	1075 West North Temple, Salt Lake City, UT 84116.	6/30/2016	The firm is a manufacturer of plastic pipe fitting parts and components for various industries.
TEK–MOTIVE, Inc	110 Commerce Street, East Haven, CT 06437.	7/1/2016	The firm is a manufacturer of disc brake pads for the aftermarket, primarily for trucks and fleet-use vehicles.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Miriam J. Kearse,

Lead Program Analyst.

[FR Doc. 2016–16527 Filed 7–12–16; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Order Renewing Order Temporarily Denying Export Privileges

Mahan Airways, Mahan Tower, No. 21, Azadegan St., M.A. Jenah Exp. Way, Tehran, Iran;

Pejman Mahmood Kosarayanifard, a/k/a Kosarian Fard, P.O. Box 52404,Dubai, United Arab Emirates;

Mahmoud Amini, G#22 Dubai Airport Free Zone, P.O. Box 393754,Dubai, United Arab Emirates and P.O. Box 52404, Dubai, United Arab Emirates,and Mohamed Abdulla Alqaz Building, Al Maktoum Street, Al Rigga, Dubai, United Arab Emirates;

Kerman Aviation, a/k/a GIE Kerman Aviation, 42 Avenue Montaigne 75008, Paris, France;

Sirjanco Trading LLC, P.O. Box 8709, Dubai, United Arab Emirates;

Ali Eslamian, 33 Cavendish Square, 4th Floor, London, W1G0PW, United Kingdom and 2 Bentinck Close, Prince Albert Road St. Johns Wood, London NW87RY, United Kingdom;

Mahan Air General Trading LLC, 19th Floor Al Moosa Tower One, Sheik Zayed Road, Dubai 40594, United Arab Emirates;

Skyco (UK) Ltd., 33 Cavendish Square, 4th Floor, London, W1G 0PV, United Kingdom;

Equipco (UK) Ltd., 2 Bentinck Close, Prince Albert Road, London, NW8 7RY, United Kingdom;

Mehdi Bahrami, Mahan Airways–Istanbul Office, Cumhuriye Cad. Sibil Apt No: 101 D:6, 34374 Emadad, Sisli Istanbul, Turkey;

Al Naser Airlines, a/k/a al-Naser Airlines, a/k/a Alnaser Airlines and, Air Freight Ltd. Home 46, Al-Karrada, Babil Region, District 929, St 21 Beside Al Jadirya Private Hospital, Baghdad, Iraq and Al Amirat Street, Section 309, St. 3/H.20 Al Mansour Baghdad, Iraq, and P.O. Box 28360, Dubai, United Arab Emiratesand P.O. Box 911399, Amman 11191, Jordan;

Ali Abdullah Alhay, a/k/a Ali Alhay, a/k/a Ali Abdullah Ahmed Alhay, Home 46, Al-Karrada, Babil Region, District 929, St 21, Beside Al Jadirya Private Hospital, Baghdad, Iraq and Anak Street, Qatif, Saudi Arabia 61177;

Bahar Safwa General Trading, P.O. Box 113212 Citadel Tower, Floor-5, Office #504, Business Bay, Dubai, United Arab Emirates and P.O. Box 8709, Citadel Tower, Business Bay, Dubai, United Arab Emirates;

Sky Blue Bird Group, a/k/a Sky Blue Bird Aviation, a/k/a Sky Blue Bird Ltd, a/k/a Sky Blue Bird FZC, P.O. Box 16111, Ras Al Khaimah Trade Zone, United Arab Emirates;

Issam Shammout, a/k/a Muhammad Isam Muhammad Anwar Nur Shammout, a/k/a Issam Anwar, Philips Building, 4th Floor, Al Fardous Street, Damascus, Syria and Al Kolaa, Beirut, Lebanon 151515 and17–18 Margaret Street, 4th Floor, London, W1W 8RP, United Kingdomand Cumhuriyet Mah. Kavakli San St. Fulya, Cad. Hazar Sok. No.14/A Silivri, Istanbul, Turkey

Pursuant to Section 766.24 of the Export Administration Regulations, 15 CFR parts 730–774 (2016) ("EAR" or the "Regulations"),[1] I hereby grant the request of the Office of Export Enforcement ("OEE") to renew the January 7, 2016 Temporary Denial Order (the "TDO"). The January 7, 2016 Order denied the export privileges of Mahan Airways, Pejman Mahmood Kosarayanifard, Mahmoud Amini, Kerman Aviation, Sirjanco Trading LLC, Ali Eslamian, Mahan Air General Trading LLC, Skyco (UK) Ltd., Equipco (UK) Ltd., Mehdi Bahrami, Al Naser Airlines, Ali Abdullah Alhay, Bahar Safwa General Trading, Sky Blue Bird Group, and Issam Shammout.[2] I find that renewal of the TDO is necessary in the public interest to prevent an imminent violation of the EAR.

I. Procedural History

On March 17, 2008, Darryl W. Jackson, the then-Assistant Secretary of Commerce for Export Enforcement ("Assistant Secretary"), signed a TDO denying Mahan Airways' export privileges for a period of 180 days on the grounds that its issuance was necessary in the public interest to prevent an imminent violation of the Regulations. The TDO also named as denied persons Blue Airways, of Yerevan, Armenia ("Blue Airways of Armenia"), as well as the "Balli Group Respondents," namely, Balli Group PLC, Balli Aviation, Balli Holdings, Vahid Alaghband, Hassan Alaghband, Blue Sky One Ltd., Blue Sky Two Ltd., Blue Sky Three Ltd., Blue Sky Four Ltd., Blue Sky Five Ltd., and Blue Sky Six Ltd., all of the United Kingdom. The TDO was issued *ex parte* pursuant to Section 766.24(a), and went into effect on March 21, 2008, the date it was published in the **Federal Register**.

The TDO subsequently has been renewed in accordance with Section 766.24(d), including most recently on January 7, 2016.[3] As of March 9, 2010, the Balli Group Respondents and Blue Airways were no longer subject to the TDO. As part of the February 25, 2011 TDO renewal, Gatewick LLC (a/k/a Gatewick Freight and Cargo Services, a/k/a Gatewick Aviation Services), Mahmoud Amini, and Pejman Mahmood Kosarayanifard ("Kosarian Fard") were added as related persons in accordance with Section 766.23 of the Regulations.[4] On July 1, 2011, the TDO was modified by adding Zarand Aviation as a respondent in order to prevent an imminent violation.[5] As part of the August 24, 2011 renewal, Kerman Aviation, Sirjanco Trading LLC, and Ali Eslamian were added to the TDO as related persons. Mahan Air General Trading LLC, Skyco (UK) Ltd., and Equipco (UK) Ltd. were added as related persons on April 9, 2012. Mehdi Bahrami was added to the TDO as a related person as part of the February 4, 2013 renewal order.

On May 21, 2015, the TDO was modified to add Al Naser Airlines, Ali Abdullah Alhay, and Bahar Safwa General Trading as respondents. Sky Blue Bird Group and its chief executive officer Issam Shammout were added to the TDO as related persons as part of the July 13, 2015 renewal order.[6]

On June 15, 2016, BIS, through its Office of Export Enforcement ("OEE"), submitted a written request for renewal of the TDO. The written request was made more than 20 days before the scheduled expiration of the current TDO, which issued on January 7, 2016. Notice of the renewal request also was provided to Mahan Airways, Al Naser Airlines, Ali Abdullah Alhay, and Bahar Safwa General Trading in accordance with Sections 766.5 and 766.24(d) of the Regulations. No opposition to the renewal of the TDO has been received. Furthermore, no appeal of the related person determinations I made as part of the September 3, 2010, February 25, 2011, August 24, 2011, April 9, 2012, February 4, 2013, and July 13, 2015 renewal or modification orders has been made by Kosarian Fard, Mahmoud Amini, Kerman Aviation, Sirjanco Trading LLC, Ali Eslamian, Mahan Air General Trading LLC, Skyco (UK) Ltd., Equipco (UK) Ltd., Mehdi Bahrami, Sky Blue Bird Group, or Issam Shammout.[7]

II. Renewal of the TDO

A. Legal Standard

Pursuant to Section 766.24, BIS may issue or renew an order temporarily denying a respondent's export privileges upon a showing that the order is necessary in the public interest to prevent an "imminent violation" of the Regulations. 15 CFR 766.24(b)(1) and 776.24(d). "A violation may be 'imminent' either in time or degree of likelihood." 15 CFR 766.24(b)(3). BIS may show "either that a violation is about to occur, or that the general circumstances of the matter under investigation or case under criminal or administrative charges demonstrate a likelihood of future violations." *Id.* As to the likelihood of future violations, BIS may show that the violation under investigation or charge "is significant, deliberate, covert and/or likely to occur again, rather than technical or negligent [.]" *Id.* A "lack of information establishing the precise time a violation may occur does not preclude a finding that a violation is imminent, so long as

[1] The Regulations, currently codified at 15 CFR parts 730–774 (2016), originally issued pursuant to the Export Administration Act of 1979. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 7, 2015 (80 FR 48,223 (Aug. 11, 2015)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)).

[2] See note 3, *infra*.

[3] The January 7, 2016 Order was published in the **Federal Register** on January 15, 2016 (81 F.R. 2161, Jan. 15, 2016). The TDO previously had been renewed on September 17, 2008, March 16, 2009, September 11, 2009, March 9, 2010, September 3, 2010, February 25, 2011, August 24, 2011, February 15, 2012, August 9, 2012, February 4, 2013, July 31, 2013, January 24, 2014, July 22, 2014, January 16, 2015, and July 13, 2015. The August 24, 2011 renewal followed the modification of the TDO on July 1, 2011, which added Zarand Aviation as a respondent. The July 13, 2015 renewal followed the modification of the TDO on May 21, 2015, which added Al Naser Airlines, Ali Abdullah Alhay, and Bahar Safwa General Trading as respondents. Each renewal or modification order was published in the **Federal Register**.

[4] On August 13, 2014, BIS and Gatewick LLC resolved administrative charges against Gatewick, including a charge for acting contrary to the terms of a BIS denial order (15 CFR 764.2(k)). In addition to the payment of a civil penalty, the settlement includes a seven-year denial order. The first two years of the denial period are active, with the remaining five years suspended on condition that Gatewick LLC pays the civil penalty in full and timely fashion and commits no further violation of the Regulations during the seven-year denial period. The Gatewick LLC Final Order was published in the **Federal Register** on August 20, 2014. *See* 79 FR 49283 (Aug. 20, 2014).

[5] As of July 22, 2014, Zarand Aviation was no longer subject to the TDO.

[6] The U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC") designated Sky Blue Bird and Issam Shammout as Specially Designated Global Terrorists ("SDGTs") on May 21, 2015, pursuant to Executive Order 13324, for "providing support to Iran's Mahan Air." See 80 FR 30762 (May 29, 2015).

[7] A party named or added as a related person may not oppose the issuance or renewal of the underlying temporary denial order, but may file an appeal of the related person determination in accordance with Section 766.23(c).

there is sufficient reason to believe the likelihood of a violation." *Id.*

B. The TDO and BIS's Request for Renewal

OEE's request for renewal is based upon the facts underlying the issuance of the initial TDO and the TDO renewals in this matter and the evidence developed over the course of this investigation indicating a blatant disregard of U.S. export controls and the TDO. The initial TDO was issued as a result of evidence that showed that Mahan Airways and other parties engaged in conduct prohibited by the EAR by knowingly re-exporting to Iran three U.S.-origin aircraft, specifically Boeing 747s ("Aircraft 1–3"), items subject to the EAR and classified under Export Control Classification Number ("ECCN") 9A991.b, without the required U.S. Government authorization. Further evidence submitted by BIS indicated that Mahan Airways was involved in the attempted re-export of three additional U.S.-origin Boeing 747s ("Aircraft 4–6") to Iran.

As discussed in the September 17, 2008 renewal order, evidence presented by BIS indicated that Aircraft 1–3 continued to be flown on Mahan Airways' routes after issuance of the TDO, in violation of the Regulations and the TDO itself.[8] It also showed that Aircraft 1–3 had been flown in further violation of the Regulations and the TDO on the routes of Iran Air, an Iranian Government airline. Moreover, as discussed in the March 16, 2009, September 11, 2009 and March 9, 2010 Renewal Orders, Mahan Airways registered Aircraft 1–3 in Iran, obtained Iranian tail numbers for them (EP–MNA, EP–MNB, and EP–MNE, respectively), and continued to operate at least two of them in violation of the Regulations and the TDO,[9] while also committing an additional knowing and willful violation when it negotiated for and acquired an additional U.S.-origin aircraft. The additional acquired aircraft was an MD–82 aircraft, which subsequently was painted in Mahan Airways' livery and flown on multiple Mahan Airways' routes under tail number TC–TUA.

The March 9, 2010 Renewal Order also noted that a court in the United Kingdom ("U.K.") had found Mahan Airways in contempt of court on February 1, 2010, for failing to comply with that court's December 21, 2009 and January 12, 2010 orders compelling Mahan Airways to remove the Boeing 747s from Iran and ground them in the Netherlands. Mahan Airways and the Balli Group Respondents had been litigating before the U.K. court concerning ownership and control of Aircraft 1–3. In a letter to the U.K. court dated January 12, 2010, Mahan Airways' Chairman indicated, *inter alia,* that Mahan Airways opposes U.S. Government actions against Iran, that it continued to operate the aircraft on its routes in and out of Tehran (and had 158,000 "forward bookings" for these aircraft), and that it wished to continue to do so and would pay damages if required by that court, rather than ground the aircraft.

The September 3, 2010 renewal order discussed the fact that Mahan Airways' violations of the TDO extended beyond operating U.S.-origin aircraft and attempting to acquire additional U.S.-origin aircraft. In February 2009, while subject to the TDO, Mahan Airways participated in the export of computer motherboards, items subject to the Regulations and designated as EAR99, from the United States to Iran, via the United Arab Emirates ("UAE"), in violation of both the TDO and the Regulations, by transporting and/or forwarding the computer motherboards from the UAE to Iran. Mahan Airways' violations were facilitated by Gatewick LLC, which not only participated in the transaction, but also has stated to BIS that it acted as Mahan Airways' sole booking agent for cargo and freight forwarding services in the UAE.

Moreover, in a January 24, 2011 filing in the U.K. court, Mahan Airways asserted that Aircraft 1–3 were not being used, but stated in pertinent part that the aircraft were being maintained in Iran especially "in an airworthy condition" and that, depending on the outcome of its U.K. court appeal, the aircraft "could immediately go back into service . . . on international routes into and out of Iran." Mahan Airways' January 24, 2011 submission to U.K. Court of Appeal, at p. 25, ¶¶ 108, 110. This clearly stated intent, both on its own and in conjunction with Mahan Airways' prior misconduct and statements, demonstrated the need to renew the TDO in order to prevent imminent future violations. Two of these three 747s subsequently were removed from Iran and are no longer in Mahan Airway's possession. The third of these 747s, with Manufacturer's Serial Number ("MSN") 23480 and Iranian tail number EP–MNE, remained in Iran under Mahan's control. Pursuant to Executive Order 13324, it was designated a Specially Designated Global Terrorist ("SDGT") by the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC") on September 19, 2012.[10] Furthermore, as discussed in the February 4, 2013 Order, open source information indicated that this 747, painted in the livery and logo of Mahan Airways, had been flown between Iran and Syria, and was suspected of ferrying weapons and/or other equipment to the Syrian Government from Iran's Islamic Revolutionary Guard Corps. Open source information showed that this aircraft had flown from Iran to Syria as recently as June 30, 2013, and continues to show that it remains in active operation in Mahan Airways' fleet.

In addition, as first detailed in the July 1, 2011 and August 24, 2011 orders, and discussed in subsequent renewal orders in this matter, Mahan Airways also continued to evade U.S. export control laws by operating two Airbus A310 aircraft, bearing Mahan Airways' livery and logo, on flights into and out of Iran.[11] At the time of the July 1, 2011 and August 24, 2011 Orders, these Airbus A310s were registered in France, with tail numbers F–OJHH and F–OJHI, respectively.[12]

The August 2012 renewal order also found that Mahan Airways had acquired another Airbus A310 aircraft subject to the Regulations, with MSN 499 and Iranian tail number EP–VIP, in violation of the TDO and the Regulations.[13] On September 19, 2012, all three Airbus A310 aircraft (tail numbers F–OJHH, F–OJHI, and EP–VIP) were designated as SDGTs.[14]

[8] Engaging in conduct prohibited by a denial order violates the Regulations. 15 CFR 764.2(a) and (k).

[9] The third Boeing 747 appeared to have undergone significant service maintenance and may not have been operational at the time of the March 9, 2010 renewal order.

[10] *See http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/pages/20120919.aspx.*

[11] The Airbus A310s are powered with U.S.-origin engines. The engines are subject to the EAR and classified under Export Control Classification ("ECCN") 9A991.d. The Airbus A310s contain controlled U.S.-origin items valued at more than 10 percent of the total value of the aircraft and as a result are subject to the EAR. They are classified under ECCN 9A991.b. The export or reexport of these aircraft to Iran requires U.S. Government authorization pursuant to Sections 742.8 and 746.7 of the Regulations.

[12] OEE subsequently presented evidence that after the August 24, 2011 renewal, Mahan Airways worked along with Kerman Aviation and others to de-register the two Airbus A310 aircraft in France and to register both aircraft in Iran (with, respectively, Iranian tail numbers EP–MHH and EP–MHI). It was determined subsequent to the February 15, 2012 renewal order that the registration switch for these A310s was cancelled and that Mahan Airways then continued to fly the aircraft under the original French tail numbers (F–OJHH and F–OJHI, respectively). Both aircraft apparently remain in Mahan Airways' possession.

[13] See note 12, *supra.*

[14] *See http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/pages/20120919.aspx.* Mahan Airways was previously

The February 4, 2013 Order laid out further evidence of continued and additional efforts by Mahan Airways and other persons acting in concert with Mahan, including Kral Aviation and another Turkish company, to procure U.S.-origin engines—two GE CF6–50C2 engines, with MSNs 517621 and 517738, respectively—and other aircraft parts in violation of the TDO and the Regulations.[15] The February 4, 2013 renewal order also added Mehdi Bahrami as a related person in accordance with Section 766.23 of the Regulations. Bahrami, a Mahan Vice-President and the head of Mahan's Istanbul Office, also was involved in Mahan's acquisition of the original three Boeing 747s (Aircraft 1–3) that resulted in the original TDO, and has had a business relationship with Mahan dating back to 1997.

The July 31, 2013 Order detailed additional evidence obtained by OEE showing efforts by Mahan Airways to obtain another GE CF6–50C2 aircraft engine (MSN 528350) from the United States via Turkey. Multiple Mahan employees, including Mehdi Bahrami, were involved in or aware of matters related to the engine's arrival in Turkey from the United States, plans to visually inspect the engine, and prepare it for shipment from Turkey.

Mahan sought to obtain this U.S.-origin engine through Pioneer Logistics Havacilik Turizm Yonetim Danismanlik ("Pioneer Logistics"), an aircraft parts supplier located in Turkey, and its director/operator, Gulnihal Yegane, a Turkish national who previously had conducted Mahan related business with Mehdi Bahrami and Ali Eslamian. Moreover, as referenced in the July 31, 2013 Order, a sworn affidavit by Kosol Surinanda, also known as Kosol Surinandha, Managing Director of Mahan's General Sales Agent in Thailand, stated that the shares of Pioneer Logistics for which he was the listed owner were "actually the property of and owned by Mahan." He further stated that he held "legal title to the shares until otherwise required by Mahan" but would "exercise the rights granted to [him] exactly and only as instructed by Mahan and [his] vote and/or decisions [would] only and exclusively reflect the wills and demands of Mahan[.]"[16]

The January 24, 2014 Order outlined OEE's continued investigation of Mahan Airways' activities and detailed an attempt by Mahan, which OEE thwarted, to obtain, via an Indonesian aircraft parts supplier, two U.S.-origin Honeywell ALF–502R–5 aircraft engines (MSNs LF5660 and LF5325), items subject to the Regulations, from a U.S. company located in Texas. An invoice of the Indonesian aircraft parts supplier dated March 27, 2013, listed Mahan Airways as the purchaser of the engines and included a Mahan ship-to address. OEE also obtained a Mahan air waybill dated March 12, 2013, listing numerous U.S.-origin aircraft parts subject to the Regulations—including, among other items, a vertical navigation gyroscope, a transmitter, and a power control unit—being transported by Mahan from Turkey to Iran in violation of the TDO.

The July 22, 2014 Order discussed open source evidence from the March-June 2014 time period regarding two BAE regional jets, items subject to the Regulations, that were painted in the livery and logo of Mahan Airways and operating under Iranian tail numbers EP–MOK and EP–MOI, respectively.[17] In addition, aviation industry resources indicated that these aircraft were obtained by Mahan Airways in late November 2013 and June 2014, from Ukrainian Mediterranean Airline, a Ukrainian airline that was added to BIS's Entity List (Supplement No. 4 to Part 744 of the Regulations) on August 15, 2011, for acting contrary to the national security and foreign policy interests of the United States.[18] OEE's on-going investigation indicates that both BAE regional jets remain active in Mahan's fleet, with open source information showing EP–MOI being used on flights into and out of Iran as recently as January 12, 2015. The continued operation of these aircraft by Mahan Airways violates the TDO.

The January 16, 2015 Order detailed evidence of additional attempts by Mahan Airways to acquire items subject the Regulations in further violation of the TDO. Specifically, in March 2014, OEE became aware of an inertial reference unit bearing serial number 1231 ("the IRU") that had been sent to the United States for repair. The IRU is subject to the Regulations, classified under ECCN 7A103, and controlled for missile technology reasons. Upon closer inspection, it was determined that IRU came from or had been installed on an Airbus A340 aircraft bearing MSN 056. Further investigation revealed that as of approximately February 2014, this aircraft was registered under Iranian tail number EP–MMB and had been painted in the livery and logo of Mahan Airways.

The January 16, 2015 Order also described related efforts by the Departments of Justice and Treasury to further thwart Mahan's illicit procurement efforts. Specifically, on August 14, 2014, the United States Attorney's Office for the District of Maryland filed a civil forfeiture complaint for the IRU pursuant to 22 U.S.C. 401(b) that resulted in the court issuing an Order of Forfeiture on December 2, 2014. EP–MMB remains listed as active in Mahan Airways' fleet.

Additionally, on August 29, 2014, OFAC blocked the property and interests in property of Asian Aviation Logistics of Thailand, a Mahan Airways affiliate or front company, pursuant to Executive Order 13224. In doing so, OFAC described Mahan Airway's use of Asian Aviation Logistics to evade sanctions by making payments on behalf of Mahan for the purchase of engines and other equipment.[19]

designated by OFAC as a SDGT on October 18, 2011. 77 FR 64,427 (October 18, 2011).

[15] Kral Aviation was referenced in the February 4, 2013 Order as "Turkish Company No. 1." Kral Aviation purchased a GE CF6–50C2 aircraft engine (MSN 517621) from the United States in July 2012, on behalf of Mahan Airways. OEE was able to prevent this engine from reaching Mahan by issuing a redelivery order to the freight forwarder in accordance with Section 758.8 of the Regulations. OEE also issued Kral Aviation a redelivery order for the second CF6–50C2 engine (MSN 517738) on July 30, 2012. The owner of the second engine subsequently cancelled the item's sale to Kral Aviation. In September 2012, OEE was alerted by a U.S. exporter that another Turkish company ("Turkish Company No. 2") was attempting to purchase aircraft spare parts intended for re-export by Turkish Company No. 2 to Mahan Airways. *See* February 4, 2013 Order.

On December 31, 2013, Kral Aviation was added to BIS's Entity List, Supplement No. 4 to Part 744 of the Regulations. *See* 78 FR 75458 (Dec. 12, 2013). Companies and individuals are added to the Entity List for engaging in activities contrary to the national security or foreign policy interests of the United States. *See* 15 CFR 744.11.

[16] Pioneer Logistics, Gulnihal Yegane, and Kosol Surinanda also were added to the Entity List on December 12, 2013. *See* 78 FR 75458 (Dec. 12, 2013).

[17] The BAE regional jets are powered with U.S.-origin engines. The engines are subject to the EAR and classified under ECCN 9A991.d. These aircraft contain controlled U.S.-origin items valued at more than 10 percent of the total value of the aircraft and as a result are subject to the EAR. They are classified under ECCN 9A991.b. The export or reexport of these aircraft to Iran requires U.S. Government authorization pursuant to Sections 742.8 and 746.7 of the Regulations.

[18] *See* 76 FR 50407 (Aug. 15, 2011). The July 22, 2014 TDO renewal order also referenced two Airbus A320 aircraft painted in the livery and logo of Mahan Airways and operating under Iranian tail numbers EP–MMK and EP–MML, respectively. OEE's investigation also showed that Mahan obtained these aircraft in November 2013, from Khors Air Company, another Ukrainian airline that, like Ukrainian Mediterranean Airlines, was added to BIS's Entity List on August 15, 2011. Open source evidence indicates the two Airbus A320 aircraft may be been transferred by Mahan Airways to another Iranian airline in October 2014, and issued Iranian tail numbers EP–APE and EP–APF, respectively.

[19] See *http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20140829.aspx*. *See* 79 FR 55073 (Sep. 15, 2014). OFAC also blocked the property and property

Continued

The May 21, 2015 modification order detailed the acquisition of two aircraft, specifically an Airbus A340 bearing MSN 164 and an Airbus A321 bearing MSN 550, that were purchased by Al Naser Airlines in late 2014/early 2015 and are currently located in Iran under the possession, control, and/or ownership of Mahan Airways.[20] The sales agreements for these two aircraft were signed by Ali Abdullah Alhay for Al Naser Airlines.[21] Payment information reveals that multiple electronic funds transfers ("EFT") were made by Ali Abdullah Alhay and Bahar Safwa General Trading in order to acquire MSNs 164 and 550.

The May 21, 2015 modification order also laid out evidence showing the respondents' attempts to obtain other controlled aircraft, including aircraft physically located in the United States in similarly-patterned transactions during the same recent time period. Transactional documents involving two Airbus A320s bearing MSNs 82 and 99, respectively, again showed Ali Abdullah Alhay signing sales agreements for Al Naser Airlines.[22] A review of the payment information for these aircraft similarly revealed EFTs from Ali Abdullah Alhay and Bahar Safwa General Trading that follow the pattern described for MSNs 164 and 550, *supra*. MSNs 82 and 99 were detained by OEE Special Agents prior to their planned export from the United States.

The July 13, 2015 Order outlined evidence showing that Al Naser Airlines' attempts to acquire aircraft on behalf of Mahan Airways extended beyond MSNs 164 and 550 to include a total of nine aircraft.[23] Four of the aircraft, all of which are subject to the Regulations and were obtained by Mahan from Al Naser Airlines, had been issued the following Iranian tail numbers: EP–MMD (MSN 164), EP–MMG (MSN 383), EP–MMH (MSN 391) and EP–MMR (MSN 416), respectively.[24] Publicly available flight tracking information provided evidence that at the time of the July 13, 2015 renewal, both EP–MMH and EP–MMR were being actively flown on routes into and out of Iran in violation of the TDO and Regulations.[25]

The January 7, 2016 Order discussed evidence that Mahan Airways had begun actively flying EP–MMD, another of the aircraft Mahan obtained from Al Naser Airlines as discussed in the July 13, 2015 renewal order, on international routes into and out of Iran, including from/to Bangkok, Thailand. Additionally, the January 7, 2016 Order described publically available aviation database and flight tracking information indicating that Mahan was continuing its efforts to acquire Iranian tail numbers and press into active service under Mahan's livery and logo at least two more of the Airbus A340 aircraft it obtained from Al Naser Airlines: EP–MME (MSN 371) and EP–MMF (MSN 376), respectively. Since January 2016, EP–MME has logged flights to and from Tehran, Iran involving various destinations, including Guangzhou, China and Dubai, United Arab Emirates in further violation of the TDO and the Regulations.

The June 15, 2016 renewal request presents similar publically available information indicating that Mahan has operated EP–MMF on routes into and out of Iran. Publically available flight tracking information shows that between June 7, 2016, and June 14, 2016, EP–MMF flew on routes from Tehran, Iran to Beijing, China and Shanghai, China, respectively. Additional evidence obtained by OEE since the January 7, 2016 renewal shows that in or about November 2015, Mahan Airways acquired a BAE Avro RJ–85 aircraft (MSN E2392) in violation of the TDO and that the aircraft now bears Iranian tail number EP–MOR.[26] This evidence includes information available on the Web site of Iran's civil aviation authority.

C. Findings

Under the applicable standard set forth in Section 766.24 of the Regulations and my review of the entire record, I find that the evidence presented by BIS convincingly demonstrates that the denied persons have acted in violation of the EAR and the TDO, that such violations have been significant, deliberate and covert, and that there is a likelihood of future violations. Therefore, renewal of the TDO is necessary to prevent imminent violation of the EAR and to give notice to companies and individuals in the United States and abroad that they should continue to cease dealing with Mahan Airways and the other denied persons under the TDO in connection with export and reexport transactions involving items subject to the EAR.

IV. Order

It is therefore ordered:

First, that MAHAN AIRWAYS, Mahan Tower, No. 21, Azadegan St., M.A. Jenah Exp. Way, Tehran, Iran; PEJMAN MAHMOOD KOSARAYANIFARD A/K/A KOSARIAN FARD, P.O. Box 52404, Dubai, United Arab Emirates;

interests of Pioneer Logistics of Turkey on August 29, 2014. *Id.* Mahan Airways' use of Pioneer Logistics in an effort to evade the TDO and the Regulations was discussed in a prior renewal order, as summarized, *supra*, at 13–14. BIS added both Asian Aviation Logistics and Pioneer Logistics to the Entity List on December 12, 2013. *See* 78 FR 75458 (Dec. 12, 2013).

[20] Both of these aircraft are powered by U.S.-origin engines that are subject to the Regulations and classified under ECCN 9A991.d. Both aircraft contain controlled U.S.-origin items valued at more than 10 percent of the total value of the aircraft and as a result are subject to the EAR regardless of their location. The aircraft are classified under ECCN 9A991.b. The export or re-export of these aircraft to Iran requires U.S. Government authorization pursuant to Sections 742.8 and 746.7 of the Regulations.

[21] Ali Abdullah Alhay is a 25% owner of Al Naser Airlines.

[22] Both aircraft were physically located in the United States and therefore are subject to the Regulations pursuant to Section 734.3(a)(1). Moreover, these Airbus A320s are powered by U.S.-origin engines that are subject to the Regulations and classified under Export Control Classification Number ECCN 9A991.d. The Airbus A320s contain controlled U.S.-origin items valued at more than 10 percent of the total value of the aircraft and as a result are subject to the EAR regardless of the their location. The aircraft are classified under ECCN 9A991.b. The export or re-export of these aircraft to Iran requires U.S. Government authorization pursuant to Sections 742.8 and 746.7 of the Regulations.

[23] This evidence included a press release dated May 9, 2015, that appeared on Mahan Airways' Web site and stated that Mahan "added 9 modern aircraft to its air fleet[,]" and that the newly acquired aircraft included eight Airbus A340s and one Airbus A321. See *http://www.mahan.aero/en/mahan-air/press-room/44*. The press release was subsequently removed from Mahan Airways' Web site. Publicly available aviation databases similarly showed that Mahan had obtained nine additional aircraft from Al Naser Airlines in May 2015, including MSNs 164 and 550. As also discussed in the July 13, 2015 renewal order, Sky Blue Bird Group, via Issam Shammout, was actively involved in Al Naser Airlines' acquisition of MSNs 164 and 550, and the attempted acquisition of MSNs 82 and 99 (which were detained by OEE).

[24] The Airbus A340s are powered by U.S.-origin engines that are subject to the Regulations and classified under ECCN 9A991.d. The Airbus A340s contain controlled U.S.-origin items valued at more than 10 percent of the total value of the aircraft and as a result are subject to the EAR regardless of the their location. The aircraft are classified under ECCN 9A991.b. The export or re-export of these aircraft to Iran requires U.S. Government authorization pursuant to Sections 742.8 and 746.7 of the Regulations.

[25] There is some publically available information indicating that the aircraft Mahan Airways is flying under Iranian tail number EP–MMR is now MSN 615, rather than MSN 416. Both aircraft are Airbus A340 aircraft that Mahan acquired from Al Naser Airlines in violation of the TDO and the Regulations. Moreover, both aircraft were designated as SDGTs by OFAC on May 21, 2015, pursuant to Executive Order 13324. See 80 FR 30762 (May 29, 2015).

[26] The BAE Avro RJ–85 is powered by U.S.-origin engines that are subject to the Regulations and classified under ECCN 9A991.d. The BAE Avro RJ–85 contains controlled U.S.-origin items valued at more than 10 percent of the total value of the aircraft and as a result is subject to the EAR regardless of the its location. The aircraft is classified under ECCN 9A991.b, and its export or re-export to Iran requires U.S. Government authorization pursuant to Sections 742.8 and 746.7 of the Regulations.

MAHMOUD AMINI, G#22 Dubai Airport Free Zone, P.O. Box 393754, Dubai, United Arab Emirates, and P.O. Box 52404, Dubai, United Arab Emirates, and Mohamed Abdulla Alqaz Building, Al Maktoum Street, Al Rigga, Dubai, United Arab Emirates; KERMAN AVIATION A/K/A GIE KERMAN AVIATION, 42 Avenue Montaigne 75008, Paris, France; SIRJANCO TRADING LLC, P.O. Box 8709, Dubai, United Arab Emirates; ALI ESLAMIAN, 33 Cavendish Square, 4th Floor, London W1G0PW, United Kingdom, and 2 Bentinck Close, Prince Albert Road St. Johns Wood, London NW87RY, United Kingdom; MAHAN AIR GENERAL TRADING LLC, 19th Floor Al Moosa Tower One, Sheik Zayed Road, Dubai 40594, United Arab Emirates; SKYCO (UK) LTD., 33 Cavendish Square, 4th Floor, London, W1G 0PV, United Kingdom; EQUIPCO (UK) LTD., 2 Bentinck Close, Prince Albert Road, London, NW8 7RY, United Kingdom; and MEHDI BAHRAMI, Mahan Airways—Istanbul Office, Cumhuriye Cad. Sibil Apt No: 101 D:6, 34374 Emadad, Sisli Istanbul, Turkey; AL NASER AIRLINES A/K/A AL–NASER AIRLINES A/K/A ALNASER AIRLINES AND AIR FREIGHT LTD., Home 46, Al-Karrada, Babil Region, District 929, St 21, Beside Al Jadirya Private Hospital, Baghdad, Iraq, and Al Amirat Street, Section 309, St. 3/H.20, Al Mansour, Baghdad, Iraq, and P.O. Box 28360, Dubai, United Arab Emirates, and P.O. Box 911399, Amman 11191, Jordan; ALI ABDULLAH ALHAY A/K/A ALI ALHAY A/K/A ALI ABDULLAH AHMED ALHAY, Home 46, Al-Karrada, Babil Region, District 929, St 21, Beside Al Jadirya Private Hospital, Baghdad, Iraq, and Anak Street, Qatif, Saudi Arabia 61177; BAHAR SAFWA GENERAL TRADING, P.O. Box 113212, Citadel Tower, Floor-5, Office #504, Business Bay, Dubai, United Arab Emirates, and P.O. Box 8709, Citadel Tower, Business Bay, Dubai, United Arab Emirates; SKY BLUE BIRD GROUP A/K/A SKY BLUE BIRD AVIATION A/K/A SKY BLUE BIRD LTD A/K/A SKY BLUE BIRD FZC, P.O. Box 16111, Ras Al Khaimah Trade Zone, United Arab Emirates; and ISSAM SHAMMOUT A/K/A MUHAMMAD ISAM MUHAMMAD ANWAR NUR SHAMMOUT A/K/A ISSAM ANWAR, Philips Building, 4th Floor, Al Fardous Street, Damascus, Syria, and Al Kolaa, Beirut, Lebanon 151515, and 17–18 Margaret Street, 4th Floor, London, W1W 8RP, United Kingdom, and Cumhuriyet Mah. Kavakli San St. Fulya, Cad. Hazar Sok. No.14/A Silivri, Istanbul, Turkey, and when acting for or on their behalf, any successors or assigns, agents, or employees (each a "Denied Person" and collectively the "Denied Persons") may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Export Administration Regulations ("EAR"), or in any other activity subject to the EAR including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR.

Second, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of a Denied Person any item subject to the EAR;

B. Take any action that facilitates the acquisition or attempted acquisition by a Denied Person of the ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby a Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from a Denied Person of any item subject to the EAR that has been exported from the United States;

D. Obtain from a Denied Person in the United States any item subject to the EAR with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the EAR that has been or will be exported from the United States and which is owned, possessed or controlled by a Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by a Denied Person if such service involves the use of any item subject to the EAR that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that, after notice and opportunity for comment as provided in section 766.23 of the EAR, any other person, firm, corporation, or business organization related to a Denied Person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

Fourth, that this Order does not prohibit any export, reexport, or other transaction subject to the EAR where the only items involved that are subject to the EAR are the foreign-produced direct product of U.S.-origin technology.

In accordance with the provisions of Sections 766.24(e) of the EAR, Mahan Airways, Al Naser Airlines, Ali Abdullah Alhay, and/or Bahar Safwa General Trading may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202–4022. In accordance with the provisions of Sections 766.23(c)(2) and 766.24(e)(3) of the EAR, Pejman Mahmood Kosarayanifard, Mahmoud Amini, Kerman Aviation, Sirjanco Trading LLC, Ali Eslamian, Mahan Air General Trading LLC, Skyco (UK) Ltd., Equipco (UK) Ltd., Mehdi Bahrami, Sky Blue Bird Group, and/or Issam Shammout may, at any time, appeal their inclusion as a related person by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202–4022.

In accordance with the provisions of Section 766.24(d) of the EAR, BIS may seek renewal of this Order by filing a written request not later than 20 days before the expiration date. A renewal request may be opposed by Mahan Airways, Al Naser Airlines, Ali Abdullah Alhay, and/or Bahar Safwa General Trading as provided in Section 766.24(d), by filing a written submission with the Assistant Secretary of Commerce for Export Enforcement, which must be received not later than seven days before the expiration date of the Order.

A copy of this Order shall be provided to Mahan Airways, Al Naser Airlines, Ali Abdullah Alhay, and Bahar Safwa General Trading and each related person, and shall be published in the **Federal Register**. This Order is effective

immediately and shall remain in effect for 180 days.[27]

Dated: July 7, 2016.

Richard R. Majauskas,

Deputy Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 2016–16567 Filed 7–12–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–601]

Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Preliminary Results of Changed Circumstances Review and Intent To Reinstate Shanghai General Bearing Co., Ltd. in the Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is conducting a changed circumstances review of the antidumping duty order on tapered roller bearings and parts thereof, finished and unfinished (TRBs), from the People's Republic of China (PRC) to determine whether Shanghai General Bearing Co., Ltd. (SGBC/SKF) has resumed dumping TRBs and whether the antidumping order should be reinstated for TRBs from the PRC manufactured and exported by SGBC/SKF. The period of review is June 1, 2014, through May 31, 2015.

We preliminarily determine that SGBC/SKF has sold TRBs at less than normal value (NV) and that TRBs produced and exported by SGBC/SKF should be reinstated in the antidumping order on TRBs from the PRC. We will instruct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of TRBs manufactured and exported by SGBC/SKF and entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Interested parties are invited to comment on these preliminary results.

DATES: Effective Date: July 13, 2016.

FOR FURTHER INFORMATION CONTACT: Alice Maldonado, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–4682.

[27] Review and consideration of this matter have been delegated to the Deputy Assistant Secretary of Commerce for Export Enforcement.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise covered by the order includes tapered roller bearings and parts thereof. The subject merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 8482.20.00, 8482.91.00.50, 8482.99.15, 8482.99.45, 8483.20.40, 8483.20.80, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.80, 8708.70.6060, 8708.99.2300, 8708.99.4850, 8708.99.6890, 8708.99.8115, and 8708.99.8180. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of the order is dispositive.[1]

Tolling of Deadlines for Preliminary Results

As explained in the memorandum from the Acting Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll all administrative deadlines for the duration of the closure of the Federal Government during Snowstorm "Jonas." [2] Therefore, all deadlines in this segment of the proceeding have been extended by four days. The revised deadline for the preliminary results of this review is now July 5, 2016.[3]

Basis for Reinstatement

In requesting revocation, pursuant to 19 CFR 351.222(b)(2)(i)(B), SGBC/SKF agreed to immediate reinstatement of the order, so long as any exporter or producer is subject to the order, if the Secretary concludes that subsequent to the revocation, SGBC/SKF sold TRBs at less than NV.[4] Under 19 CFR 351.222(b)(2)(i)(B) as long as any exporter or producer is subject to an antidumping duty order which remains in force, an entity previously granted a revocation may be reinstated under that order if it is established that the entity has resumed the dumping of subject merchandise.

In this case, because other exporters in the PRC remain subject to the TRBs order, the order remains in effect, and SGBC/SKF may be reinstated in the order. The Department granted SGBC/SKF revocation based in part upon its agreement to immediate reinstatement in the antidumping duty order if the Department were to find that the company resumed dumping of TRBs from the PRC.[5]

As discussed in the Preliminary Decision Memorandum, we have examined SGBC/SKF's response and have preliminarily found that SGBC/SKF's dumping margin for the review period is greater than *de minimis*. Accordingly, we preliminarily intend to reinstate SGBC/SKF in the antidumping duty order on TRBs from the PRC.

Methodology

The Department is conducting this changed circumstances review in accordance with section 751(b)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.216(d). As noted above, this changed circumstances review is being conducted with respect to TRBs from the PRC manufactured and exported by SGBC/SKF. For SGBC/SKF, we calculated constructed export prices in accordance with section 772 of the Act. Because the PRC is a non-market economy (NME) within the meaning of section 771(18) of the Act, NV has been calculated in accordance with section 773(c) of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users

[1] For a complete description of the scope of the order, *see* memorandum from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, dated July 5, 2016 entitled "Decision Memorandum for the Preliminary Results of the Antidumping Duty Changed Circumstances Review of Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China" (Preliminary Decision Memorandum), issued concurrently with and hereby adopted by this notice.

[2] *See* Memorandum to the Record from Ron Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During Snowstorm Jonas," dated January 27, 2016.

[3] We aligned the deadlines of this processing with those in the concurrent 2014–2015 administrative review of TRBs from the PRC. *See* memorandum from Alice Maldonado, International Trade Compliance Analyst, Office II, to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled "Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Changed Circumstances Review of Shanghai General Bearing Company, Ltd., entitled, Alignment with the 2014–2015 Antidumping Duty Administrative Review of Tapered Roller Bearings from the People's Republic of China," dated October 27, 2015.

[4] *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Final Results of Antidumping Duty Administrative Review and Revocation in Part of Antidumping Duty Order*, 62 FR 6189 (February 11, 1997) (for the 1993–1994 review) (*SGBC/SKF Revocation*).

[5] *See SGBC/SKF Revocation*, 62 FR at 6214.

at *https://access.trade.gov,* and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be found at *http://enforcement.trade.gov/frn/.* The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content. A list of the topics discussed in the Preliminary Decision Memorandum is attached as the Appendix to this notice.

Preliminary Results of Review

The Department preliminarily determines that the following weighted-average dumping margin exists for the period June 1, 2014, through May 31, 2015:

Manufacturer/exporter	Weighted-average dumping margin (percent)
Shanghai General Bearing Co., Ltd	9.81

Disclosure and Public Comment

The Department will disclose calculations performed for these preliminary results to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results of review or, if the Department conducts verification of SGBC/SKF's data, seven days after the issuance of the final verification report, whichever date is later.[6] Rebuttals to case briefs may be filed no later than five days after case briefs are filed and all rebuttal briefs must be limited to comments raised in the case briefs.[7] Parties who submit comments are requested to submit with the argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[8]

Any interested party may request a hearing within 30 days of publication of this notice.[9] Hearing requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.[10] If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.[11]

All submissions, with limited exceptions, must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety by 5 p.m. Eastern Time (ET) on the due date. Documents excepted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with the APO/Dockets Unit in Room 18022 and stamped with the date and time of receipt by 5 p.m. ET on the due date.

Unless otherwise extended, the Department intends to issue the final results of this changed circumstances review, which will include the results of its analysis of all issues raised in the case briefs, within 120 days of publication of these preliminary results.

Reinstatement and Suspension of Liquidation

Because we have preliminarily established that TRBs from the PRC manufactured and exported by SGBC/SKF is being sold at less than NV, SGBC/SKF is hereby preliminarily reinstated in the antidumping duty order. We will instruct CBP to suspend liquidation of all entries of subject merchandise manufactured and exported by SGBC/SKF, entered or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Furthermore, a cash deposit requirement of 9.81 percent will be in effect for all shipments of the subject merchandise manufactured and exported by SGBC/SKF entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice. This requirement shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these preliminary results of review in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b) of the Department's regulations.

Dated: July 5, 2016.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Preliminary Decision Memorandum

1. Summary
2. Background
3. Scope of the Order
4. Discussion of the Methodology
   a. Non-Market Economy Country Status
   b. Separate Rates
   c. Collapsing of SGBC/SKF With Another Producer of TRBs
   d. Surrogate Country
   e. Date of Sale
   f. Comparisons to Normal Value
   g. Constructed Export Price
   h. Value-Added Tax (VAT)
   i. Normal Value
   j. Currency Conversion
5. Conclusion

[FR Doc. 2016–16472 Filed 7–12–16; 8:45 am]

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[6] *See* 19 CFR 351.309(c)(1)(ii).

[7] *See* 19 CFR 351.309(d).

[8] *See* 19 CFR 351.309(c)(2).

[9] *See* 19 CFR 351.310(c).

[10] *Id.*

[11] *See* 19 CFR 351.310(d).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE715

Atlantic Coastal Fisheries Cooperative Management Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Greater Atlantic Region, NMFS, has made a preliminary determination that an Exempted Fishing Permit application from the Massachusetts Division of Marine Fisheries contains all of the required information and warrants further consideration. This Exempted Fishing Permit would allow a commercial fishing vessel to retain approximately 600 sublegal-sized male, and egg-bearing, v-notched, and sublegal-sized female lobsters during normal fishing operations in Lobster Management Area 2 for use in reproductive laboratory research being conducted by Massachusetts Division of Marine Fisheries.

Regulations under the Magnuson-Stevens Fishery Conservation and

Management Act and the Atlantic Coastal Fisheries Cooperative Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed Exempted Fishing Permits.

DATES: Comments must be received on or before July 28, 2016.

ADDRESSES: You may submit written comments by any of the following methods:

- *Email to: nmfs.gar.efp@noaa.gov.* Include in the subject line "MA DMF Climate Change Lobster EFP."
- *Mail to:* John K. Bullard, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on MA DMF Climate Change Lobster EFP."

FOR FURTHER INFORMATION CONTACT: Cynthia Hanson, NOAA Affiliate, 978–281–9180.

SUPPLEMENTARY INFORMATION: Massachusetts Division of Marine Fisheries (MA DMF) submitted a complete application for an Exempted Fishing Permit (EFP) on June 27, 2016, to conduct commercial fishing activities that the regulations would otherwise restrict. The EFP would authorize one vessel to possess and transport approximately 600 sublegal-sized male, and egg-bearing, v-notched, and sublegal-sized female lobsters during normal fishing operations in Lobster Management Area (LMA) 2. These lobsters will be delivered to MA DMF staff for use in laboratory research. The research will study the effects of climate change and thermal stress on reproduction in lobsters and requires reproductively capable lobsters to examine/observe mating success, fecundity, egg quality, and overall reproductive capacity.

Funding for this study has been awarded under the Saltonstall-Kennedy Research Program (Grant #NA16NMF4270242). This study is designed to investigate the decline and recruitment failure of the Southern New England lobster stock. MA DMF is requesting specific exemptions from Federal lobster regulations on:

1. Minimum legal size harvest and possession requirements specified at 50 CFR 697.20(a)(4);

2. Restrictions on the harvest, possession, and transport of egg-bearing females at § 697.20(d)(1) through (3); and

3. Restrictions on the harvest and possession of standard v-notch females detailed at § 697.20(g)(3) through (4).

If the EFP is approved, all exempted collections would take place on designated collection days during the normal commercial fishing activity of the participating vessel. No additional and/or modified gear or effort would be used, so no additional impacts to bycatch, marine mammals, or endangered species are anticipated beyond the risks associated with normal fishing operations. This project will collect approximately 400 egg-bearing females and 200 otherwise restricted lobsters for scientific study. All lobsters caught under the EFP for research purposes would be banded with a different color to distinguish them from the legally harvestable commercial catch, and any egg-bearing females would be held separately from the remainder of the catch. A MA DMF staff member would meet the vessel at the dock after each collection trip to take possession of the EFP-authorized lobsters and bring them to the MA DMF facility for processing and experimental study. No more than a total of four collection days/trips of typical commercial fishing activity are anticipated under this EFP.

If approved, MA DMF may request minor modifications and extensions to the EFP throughout the study period. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 8, 2016.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–16571 Filed 7–12–16; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[FRL 9949–01–ORD]

Office of Research and Development; Ambient Air Monitoring Reference and Equivalent Methods: Designation of One New Reference Method and Four New Equivalent Methods

AGENCY: Environmental Protection Agency.

ACTION: Notice of the designation of a new reference method and four new equivalent methods for monitoring ambient air quality.

SUMMARY: Notice is hereby given that the Environmental Protection Agency (EPA) has designated, in accordance with 40 CFR part 53, one new reference method for measuring concentrations of sulfur dioxide (SO_2), four new equivalent methods for measuring concentrations of $PM_{2.5}$, PM_{10} and $PM_{10-2.5}$ in ambient air.

FOR FURTHER INFORMATION CONTACT: Robert Vanderpool, Exposure Methods and Measurement Division (MD–D205–03), National Exposure Research Laboratory, U.S. EPA, Research Triangle Park, North Carolina 27711. Email: *Vanderpool.Robert@epa.gov.*

SUPPLEMENTARY INFORMATION: In accordance with regulations at 40 CFR part 53, the EPA evaluates various methods for monitoring the concentrations of those ambient air pollutants for which EPA has established National Ambient Air Quality Standards (NAAQSs) as set forth in 40 CFR part 50. Monitoring methods that are determined to meet specific requirements for adequacy are designated by the EPA as either reference or equivalent methods (as applicable), thereby permitting their use under 40 CFR part 58 by States and other agencies for determining compliance with the NAAQSs. A list of all reference or equivalent methods that have been previously designated by EPA may be found at *http://www.epa.gov/ttn/amtic/criteria.html.*

The EPA hereby announces the designation of one new reference method for measuring concentrations of SO_2 in ambient air and two new equivalent methods for measuring pollutant concentrations of $PM_{2.5}$, one new equivalent method for measuring pollutant concentrations of PM_{10}, and one for measuring pollutant concentrations of $PM_{10-2.5}$. These designations are made under the provisions of 40 CFR part 53, as amended on October 26, 2015 (80 FR 65291).

The new reference method for SO_2 is an automated method (analyzer) utilizing a measurement principle based on ultraviolet fluorescence and is identified as follows:

RFSA–0616–237, "Sutron Model 6020 Sulfur Dioxide Fluorescent Analyzer", operated at any of the following measurement ranges: 0–0.5 ppm, at any ambient temperature in the range of 5–40 °C, at any line voltage in the range of 90–260 VAC, at any sample flow rate in the range of 0.4–0.8 L/min, and in accordance with the Model 6020 SO_2 Analyzer Operation Manual, with or

without the following options: Zero/span ports for external calibration; an optional inlet filter; or an optional second gas measurement module co-located inside of the enclosure.

This application for a reference method determination for this SO_2 method was received by the Office of Research and Development on April 25, 2016. This analyzer is commercially available from the applicant, Sutron Air Quality Division, 2548 Shell Road, Georgetown, TX 78628.

The four new PM equivalent methods are automated monitoring methods utilizing a measurement principle based on active sampling of ambient aerosols and contemporaneous analysis by means of a light-scattering technique for determination of particle size and mass concentration. These newly designated equivalent methods for $PM_{2.5}$, PM_{10} and $PM_{10-2.5}$, are identified as follows:

EQPM–0516–236, ''Teledyne Advanced Pollution Instrumentation Model T640 PM mass monitor,'' continuous ambient particulate monitor operated at a volumetric flow rate of 5.0 Lpm, equipped with a TAPI 5-Lpm sample inlet (P/N: 081050000), TAPI aerosol sample conditioner (P/N: 081040000), configured for operation with firmware version 1.0.2.126 or later, and operated in accordance with the Teledyne Model T640 Operations Manual. This designation applies to $PM_{2.5}$ measurements only.

EQPM–0516–238, ''Teledyne Advanced Pollution Instrumentation Model T640 PM mass monitor with 640X option,'' continuous ambient particulate monitor operated at a volumetric flow rate of 16.67 Lpm, equipped with the louvered PM_{10} inlet specified in 40 CFR 50 Appendix L, Figs. L–2 thru L–19, TAPI aerosol sample conditioner (P/N: 081040000), configured for operation with firmware version 1.0.2.126 or later, in accordance with the Teledyne Model T640 Operations Manual. This designation applies to $PM_{2.5}$ measurements only.

EQPM–0516–239, ''Teledyne Advanced Pollution Instrumentation Model T640 PM mass monitor with 640X option,'' continuous ambient particulate monitor operated at a volumetric flow rate of 16.67 Lpm, equipped with the louvered PM_{10} inlet specified in 40 CFR 50 Appendix L, Figs. L–2 thru L–19, TAPI aerosol sample conditioner (P/N: 081040000), configured for operation with firmware version 1.0.2.126 or later, in accordance with the Teledyne Model T640 Operations Manual. This designation applies to PM_{10} measurements only.

EQPM–0516–240, ''Teledyne Advanced Pollution Instrumentation Model T640 PM mass monitor with 640X option,'' continuous ambient particulate monitor operated at a volumetric flow rate of 16.67 Lpm, equipped with the louvered PM_{10} inlet specified in 40 CFR 50 Appendix L, Figs. L–2 thru L–19, TAPI aerosol sample conditioner (P/N: 081040000), configured for operation with firmware version 1.0.2.126 or later, in accordance with the Teledyne Model T640 Operations Manual. This designation applies to $PM_{10-2.5}$ measurements only.

The four applications for equivalent method determination for the PM candidate methods were received by the Office of Research and Development on May 2, 2016, June 1, 2016, June 9, 2016 and June 14, 2016 respectively. The monitors are commercially available from the applicant, Teledyne Advanced Pollution Instrumentation, Inc., 9480 Carroll Park Drive, San Diego, CA 92121–2251.

Representative test analyzers have been tested in accordance with the applicable test procedures specified in 40 CFR part 53, as amended on October 26, 2015. After reviewing the results of those tests and other information submitted by the applicant, EPA has determined, in accordance with part 53, that these methods should be designated as a reference or equivalent method.

As a designated reference or equivalent method, these methods are acceptable for use by states and other air monitoring agencies under the requirements of 40 CFR part 58, Ambient Air Quality Surveillance. For such purposes, each method must be used in strict accordance with the operation or instruction manual associated with the method and subject to any specifications and limitations (*e.g.*, configuration or operational settings) specified in the designated method description (see the identification of the method above).

Use of the method also should be in general accordance with the guidance and recommendations of applicable sections of the ''Quality Assurance Handbook for Air Pollution Measurement Systems, Volume I,'' EPA/600/R–94/038a and ''Quality Assurance Handbook for Air Pollution Measurement Systems, Volume II, Ambient Air Quality Monitoring Program,'' EPA–454/B–13–003, (both available at *http://www.epa.gov/ttn/amtic/qalist.html*). Provisions concerning modification of such methods by users are specified under Section 2.8 (Modifications of Methods by Users) of Appendix C to 40 CFR part 58.

Consistent or repeated noncompliance with any of these conditions should be reported to: Director, Exposure Methods and Measurement Division (MD–E205–01), National Exposure Research Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Designation of these reference and equivalent methods is intended to assist the States in establishing and operating their air quality surveillance systems under 40 CFR part 58. Questions concerning the commercial availability or technical aspects of the method should be directed to the applicant.

Dated: July 1, 2016.

Jennifer Orme-Zavaleta,

Director, National Exposure Research Laboratory.

[FR Doc. 2016–16578 Filed 7–12–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2004–0019; FRL 9949–02–OW]

Recommended Aquatic Life Ambient Water Quality Criterion for Selenium in Freshwater

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The Environmental Protection Agency (EPA) is announcing the release of a final updated Clean Water Act (CWA) section 304(a) recommended national chronic aquatic life criterion for the pollutant selenium in fresh water. The final criterion supersedes EPA's 1999 CWA section 304(a) recommended national acute and chronic aquatic life criteria for selenium. The 2016 recommended criterion reflects the latest scientific information, which indicates that selenium toxicity to aquatic life is primarily based on organisms consuming selenium-contaminated food rather than direct exposure to selenium dissolved in water. Draft versions of the criterion underwent public review in 2014 and 2015 and external peer review in 2015. EPA considered all public comments and peer reviewer comments in the development of the 2016 final selenium criterion document. EPA's water quality criterion for selenium provides recommendations to states and tribes authorized to establish water quality standards under the CWA.

FOR FURTHER INFORMATION CONTACT: Joe Beaman, Health and Ecological Criteria Division, Office of Water (Mail Code 4304T), Environmental Protection Agency, 1200 Pennsylvania Avenue

NW., Washington, DC 20460; telephone number: (202) 566–0420; email address: *beaman.joe@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. How can I get copies of this document and other related information?

1. Docket. EPA has established a docket for this action under Docket ID No. EPA–HQ–OW–2004–0019. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Water Docket in the EPA Docket Center, (EPA/DC) EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426.

2. Electronic Access. You may access this **Federal Register** document electronically from the Government Printing Office under the "**Federal Register**" listings FDSys (*http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR*).

II. What are EPA's recommended water quality criteria?

EPA's recommended water quality criteria are scientifically derived numeric values that protect aquatic life or human health from the deleterious effects of pollutants in ambient water. Section 304(a)(1) of the CWA directs EPA to develop and publish and, from time to time, revise criteria for protection of aquatic life and human health that accurately reflect the latest scientific knowledge. Water quality criteria developed under section 304(a) are based on data and the latest scientific knowledge on the relationship between pollutant concentrations and environmental and human health effects. Section 304(a) criteria do not reflect consideration of economic impacts or the technological feasibility of meeting pollutant concentrations in ambient water.

EPA's section 304(a) recommended criteria provide technical information to states and authorized tribes in adopting water quality standards (WQS) that ultimately provide a basis for assessing water body health and controlling discharges or releases of pollutants. Under the CWA and its implementing regulations, states and authorized tribes are to adopt water quality criteria to protect designated uses (*e.g.,* public water supply, aquatic life, recreational use, or industrial use). EPA's recommended water quality criteria do not substitute for the CWA or regulations, nor are they regulations themselves. EPA's recommended criteria do not impose legally binding requirements. States and authorized tribes have the discretion to adopt, where appropriate, other scientifically defensible water quality criteria that differ from these recommendations.

III. What is selenium and why is EPA concerned about it?

Selenium is a naturally occurring element that can be released into water resources by natural sources via weathering and by anthropogenic sources, such as surface mining, coal-fired power plants, and irrigated agriculture. Selenium is nutritionally essential for animals in small amounts, but toxic at higher concentrations. Selenium bioaccumulates in the aquatic food chain, and toxicity in fish occurs primarily through maternal transfer to the eggs. Chronic maternal exposure in fish and aquatic invertebrates can cause reproductive impairments (*e.g.,* larval deformity or mortality); other aquatic effects include impacts on juvenile growth and mortality.

IV. Information on the Aquatic Life Ambient Water Quality Criterion

EPA has updated the aquatic life criterion document for selenium based on the latest scientific knowledge and current EPA policies and methods, including EPA's *Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses* (1985) (EPA/R–85–100) and *Guidelines for Ecological Risk Assessment* (1998) (EPA/630/R–95/002F). Toxicity data and other information on the effects of selenium were subjected to both internal and external peer review. In 2004, EPA published the first draft of the updated recommended selenium criterion using fish-tissue concentrations. In 2009, EPA helped organize an international expert workshop on selenium and initiated collaboration with the U.S. Geological Survey to develop a selenium bioaccumulation model. EPA then revised the 2004 draft criterion to include fish tissue and water column concentrations. In 2014, EPA released the draft recommended criterion for public comment and external peer review. EPA revised the draft recommended criterion accordingly and in 2015 released the draft for a second round of public comment. EPA has considered all public comments and peer reviewer comments in the development of the 2016 final selenium criterion document.

The 2016 selenium criterion document recommends that states and authorized tribes adopt a multi-media criterion into their water quality standards. The criterion has four elements, and EPA recommends that states include all four elements in their standards. Because adverse reproductive effects are most closely linked to selenium concentrations in fish tissue, the 2016 chronic criterion is based primarily on concentrations in fish egg-ovary tissues and is translated into whole body, muscle, and water column concentrations for lakes/reservoirs and rivers/streams to create the four elements of the chronic criterion (two fish tissue and two water column). EPA recommends that when implementing the criterion, the fish tissue elements take precedence over the water column elements, except in certain circumstances. For example, water column values are the applicable criterion element in the absence of fish tissue measurements, such as waters where fish have been extirpated or where physical habitat and/or flow regime cannot sustain fish populations, or in waters with new discharges of selenium where steady state has not been achieved between water and fish tissue at the site. The previous 1999 acute and chronic recommended criteria were water column concentrations only. The table below compares the 2016 criterion with the 1999 criteria.

COMPARISON OF FINAL 2016 SELENIUM CRITERION TO 1999 CRITERIA

	Chronic					Short-term
Criterion version	Egg-Ovary [1] (mg/kg dw)	Whole Body [1] (mg/kg dw)	Muscle [1] (mg/kg dw)	Water, [1] Lentic (µg/L)	Water, [1] Lotic (µg/L)	Water (µg/L)
2016 Final Update	15.1	8.5	11.3	1.5 (30 d)	3.1 (30 d)	Intermittent exposure equation.

COMPARISON OF FINAL 2016 SELENIUM CRITERION TO 1999 CRITERIA—Continued

Criterion version	Chronic					Short-term
	Egg-Ovary [1] (mg/kg dw)	Whole Body [1] (mg/kg dw)	Muscle [1] (mg/kg dw)	Water,[1] Lentic (µg/L)	Water,[1] Lotic (µg/L)	Water (µg/L)
1999 Selenium Criteria	N/A	N/A	N/A	5 (4 d)	5 (4 d)	Acute Equation based on water column concentration.

[1] A note on hierarchy of table: when fish egg/ovary concentrations are measured, the values supersede any whole-body, muscle, or water column elements except in certain situations. Whole body or muscle measurements supersede any water column element when both fish tissue and water concentrations are measured, except in certain situations (see examples in text above). Water column values are derived from fish tissue concentrations.

The criterion document does not include an acute criterion (based on water-only exposure) because selenium is bioaccumulative and toxicity primarily occurs through dietary exposure. EPA derived an intermittent exposure criterion element from the 30-day average water column criterion element for situations where elevated inputs of selenium could result in bioaccumulation in the ecosystem and potential chronic effects in fish (*e.g.*, new discharges).

V. What is the relationship between the water quality criterion and your state or tribal water quality standards?

As part of the WQS triennial review process defined in section 303(c)(1) of the CWA, the states and authorized tribes are responsible for maintaining and revising WQS. Standards consist of designated uses, water quality criteria to protect those uses, a policy for antidegradation, and may include general policies for application and implementation. Section 303(c)(1) requires states and authorized tribes to review and modify, if appropriate, their WQS at least once every three years.

States and authorized tribes must adopt water quality criteria that protect designated uses. Consistent with EPA's regulations at 40 CFR 131.11(a), protective criteria must be based on a sound scientific rationale and contain sufficient parameters or constituents to protect the designated uses. Criteria may be expressed in either narrative or numeric form. States and authorized tribes have four options when adopting water quality criteria for which EPA has published section 304(a) criteria. They may:

(1) Establish numerical values based on recommended section 304(a) criteria;

(2) Adopt section 304(a) criteria modified to reflect site-specific conditions;

(3) Adopt criteria derived using other scientifically defensible methods; or

(4) Establish narrative criteria where numeric criteria cannot be established or to supplement numerical criteria (40 CFR 131.11(b)).

EPA's regulation at 40 CFR 131.20(a) provides that if a state does not adopt new or revised criteria parameters for which EPA has published new or updated recommendations, then the state shall provide an explanation when it submits the results of its triennial review to the Regional Administrator consistent with CWA section 303(c)(1). The updated section 304(a) selenium criteria supersede EPA's previous 304(a) recommended criteria for selenium. Consistent with 40 CFR 131.21, new or revised water quality criteria adopted into law or regulation by states and authorized tribes on or after May 30, 2000 are applicable water quality standards for CWA purposes only after EPA approval.

VI. Additional Information

EPA is developing a set of technical support documents to assist states. These materials will include fish tissue monitoring guidance as well as FAQs and fact sheets addressing flexibilities for states and authorized tribes in implementing the criteria, assessing and listing water body impairments, and wastewater permitting.

Dated: June 30, 2016.

Joel Beauvais,

Deputy Assistant Administrator, Office of Water.

[FR Doc. 2016–16585 Filed 7–12–16; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Federal Advisory Committee Act; Technological Advisory Council

AGENCY: Federal Communications Commission.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the Federal Communications Commission's (FCC) Technological Advisory Council will hold a meeting.

DATES: Tuesday, September 20th, 2016 in the Commission Meeting Room, from 12:30 p.m. to 4 p.m.

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Walter Johnston, Chief, Electromagnetic Compatibility Division, 202–418–0807; *Walter.Johnston@FCC.gov.*

SUPPLEMENTARY INFORMATION: At the September 20th meeting, the FCC Technological Advisory Council will discuss progress on and issues involving its work program agreed to at its initial meeting on March 9th, 2016. The FCC will attempt to accommodate as many people as possible. However, admittance will be limited to seating availability. Meetings are also broadcast live with open captioning over the Internet from the FCC Live Web page at *http://www.fcc.gov/live/.* The public may submit written comments before the meeting to: Walter Johnston, the FCC's Designated Federal Officer for Technological Advisory Council by email: *Walter.Johnston@fcc.gov* or U.S. Postal Service Mail (Walter Johnston, Federal Communications Commission, Room 2–A665, 445 12th Street SW., Washington, DC 20554). Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Requests for such accommodations should be submitted via email to *fcc504@fcc.gov* or by calling the Office of Engineering and Technology at 202–418–2470 (voice), (202) 418–1944 (fax). Such requests should include a detailed description of the accommodation needed. In addition, please include your contact information. Please allow at least five days advance notice; last minute requests will be accepted, but may not be possible to fill.

Federal Communications Commission.

Ronald T. Repasi,

Deputy Chief, Office of Engineering and Technology.

[FR Doc. 2016–16515 Filed 7–12–16; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of the Receivership of 10386, Bank of Shorewood Shorewood, Illinois

Notice is hereby given that the Federal Deposit Insurance Corporation ("FDIC") as Receiver for Bank of Shorewood, Shorewood, Illinois ("the Receiver") intends to terminate its receivership for said institution. The FDIC was appointed receiver of Bank of Shorewood on August 5, 2011. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this Notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this Notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: July 7, 2016.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2016–16456 Filed 7–12–16; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202)-523–5793 or *tradeanalysis@fmc.gov*.

Agreement No.: 012367–002.

Title: MSC/Maersk Line Trans-Atlantic Space Charter Agreement.

Parties: Maersk Line A/S and MSC Mediterranean Shipping Company S.A.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Conner; 1200 19th Street NW.; Washington, DC 20036.

Synopsis: The amendment revises the amount of space to be chartered under the agreement.

Agreement No.: 012424.

Title: CMA CGM/APL Slot Exchange Agreement.

Parties: CMA CGM, S.A.; APL Co. Pte Ltd; and American President Lines, Ltd.

Filing Party: Draughn B. Arbona, Esq; CMA CGM (America) LLC; 5701 Lake Wright Drive; Norfolk, VA 23502.

Synopsis: The agreement authorizes the parties to exchange slots in the trade between the U.S. East Coast on the one hand, and Italy, Egypt, United Arab Emirates, Sri Lanka, Singapore, Thailand, China, Hong Kong, Vietnam, Malaysia and Canada on the other hand.

By Order of the Federal Maritime Commission.

Dated: July 8, 2016.

Karen V. Gregory,

Secretary.

[FR Doc. 2016–16570 Filed 7–12–16; 8:45 am]

BILLING CODE 6731–AA–P

FEDERAL RESERVE SYSTEM

[Docket No. OP–1542]

Announcement of Financial Sector Liabilities

Section 622 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, implemented by the Board's Regulation XX, prohibits a merger or acquisition that would result in a financial company that controls more than 10 percent of the aggregate consolidated liabilities of all financial companies ("aggregate financial sector liabilities"). Specifically, an insured depository institution, a bank holding company, a savings and loan holding company, a foreign banking organization, any other company that controls an insured depository institution, and a nonbank financial company designated by the Financial Stability Oversight Council (each, a "financial company") is prohibited from merging or consolidating with, acquiring all or substantially all of the assets of, or acquiring control of, another company if the resulting company's consolidated liabilities would exceed 10 percent of the aggregate financial sector liabilities.[1]

Pursuant to Regulation XX, the Federal Reserve will publish the aggregate financial sector liabilities by July 1 of each year. Aggregate financial sector liabilities equals the average of the year-end financial sector liabilities figure (as of December 31) of each of the preceding two calendar years.

FOR FURTHER INFORMATION CONTACT: Sean Healey, Supervisory Financial Analyst, (202) 912–4611; Matthew Suntag, Senior Attorney, (202) 452–3694; for persons who are deaf or hard of hearing, TTY (202) 263–4869.

Aggregate Financial Sector Liabilities

Aggregate financial sector liabilities is equal to $21,786,571,865,000.[2] This measure is in effect from July 1, 2016 through June 30, 2017.

Calculation Methodology

Aggregate financial sector liabilities equals the average of the year-end financial sector liabilities figure (as of December 31) of each of the preceding two calendar years. The year-end financial sector liabilities figure equals the sum of the total consolidated liabilities of all top-tier U.S. financial companies and the U.S. liabilities of all top-tier foreign financial companies, calculated using the applicable methodology for each financial company, as set forth in Regulation XX and summarized below.

Consolidated liabilities of a U.S. financial company that was subject to consolidated risk-based capital rules as of December 31 of the year being measured, equal the difference between its risk-weighted assets (as adjusted upward to reflect amounts that are deducted from regulatory capital elements pursuant to the Federal banking agencies' risk-based capital rules) and total regulatory capital, as calculated under the applicable risk-based capital rules. For the year ending on December 31, 2015, companies in this category include (with certain exceptions listed below) bank holding companies, savings and loan holding companies, and insured depository institutions. The Federal Reserve used information collected on the Consolidated Financial Statements for Holding Companies (FR Y–9C) and the Bank Consolidated Reports of Condition and Income (Call Report) to calculate liabilities of these institutions.

[1] 12 U.S.C. 1852(a)(2), (b).

[2] This number reflects the average of the financial sector liabilities figure for the year ending December 31, 2014 ($21,632,232,035,000) and the year ending December 31, 2015 ($21,940,911,695,000).

Consolidated liabilities of a U.S. financial company not subject to consolidated risk-based capital rules as of December 31 of the year being measured, equal liabilities calculated in accordance with applicable accounting standards. For the year ending on December 31, 2015, companies in this category include nonbank financial companies supervised by the Board, bank holding companies and savings and loan holding companies subject to the Federal Reserve's Small Bank Holding Company Policy Statement, savings and loan holding companies substantially engaged in insurance underwriting or commercial activities, and U.S. companies that control depository institutions but are not bank holding companies or savings and loan holding companies. "Applicable accounting standards" is defined as GAAP, or such other accounting standard or method of estimation that the Board determines is appropriate.[3] The Federal Reserve used information collected on the FR Y–9C, the Parent Company Only Financial Statements for Small Holding Companies (FR Y–9SP), and the Financial Company Report of Consolidated Liabilities (FR XX–1) to calculate liabilities of these institutions.

Section 622 provides that the U.S. liabilities of a "foreign financial company" equal the risk-weighted assets and regulatory capital attributable to the company's "U.S. operations." Under Regulation XX, liabilities of a foreign banking organization's U.S. operations are calculated using the risk-weighted asset methodology for subsidiaries subject to risk-based capital rules, plus the assets of all branches, agencies, and nonbank subsidiaries, calculated in accordance with applicable accounting standards. Liabilities attributable to the U.S. operations of a foreign financial company that is not a foreign banking organization are calculated in a similar manner to the method described for foreign banking organizations, but liabilities of a U.S. subsidiary not subject to risk-based capital rules are calculated based on the U.S. subsidiary's liabilities under applicable accounting standards. The Federal Reserve used information collected on the Capital and Asset Report for Foreign Banking Organizations (FR Y–7Q) and the FR XX–1 to calculate liabilities of these institutions.

[3] A financial company may request to use an accounting standard or method of estimation other than GAAP if it does not calculate its total consolidated assets or liabilities under GAAP for any regulatory purpose (including compliance with applicable securities laws). 12 CFR 251.3(e).

The Board granted requests from three financial companies to use an accounting standard or method of estimation other than GAAP to calculate liabilities. All three companies were insurance companies that report financial information under Statutory Accounting Principles ("SAP"). The Board approved methods of estimation for these companies that were based on line items from SAP reports, with adjustments to reflect certain differences in accounting treatment between GAAP and SAP.

By order of the Board of Governors of the Federal Reserve System, acting through the Director of the Division Banking, Supervision and Regulation under delegated authority, June 28, 2016.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2016–16529 Filed 7–12–16; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 28, 2016.

A. Federal Reserve Bank of St. Louis (David L. Hubbard, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to *Comments.applications@stls.frb.org:*

1. *Janive Blanchard, Russellville, Arkansas, as trustee of the Blanchard Living Trust; Charles Bowen Blanchard, Russellville, Arkansas; Charles H. Blanchard, Russellville, Arkansas; Cynthia Blanchard, Russellville, Arkansas, individually and as co-trustee of the William H. Bowen Share No. 2 Trust, the William H. Bowen Exempt Share No. 1 QTIP Trust, and the William H. Bowen Nonexempt Share No. 1 QTIP Trust; Mary P. Hardman, Fayetteville, Arkansas, individually and as co-trustee of the William H. Bowen Share No. 2 Trust, the William H. Bowen Exempt Share No. 1 QTIP Trust, and the William H. Bowen Nonexempt Share No. 1 QTIP Trust; and W. Scott Bowen, as co-trustee of the William H. Bowen Share No. 2 Trust, the William H. Bowen Exempt Share No. 1 QTIP Trust, and the William H. Bowen Nonexempt Share No. 1 QTIP Trust,* to acquire voting shares of First State Banking Corporation, Russellville, Arkansas, and thereby acquire First State Bank, Russellville, Arkansas.

2. *James Troy "J.T." Compton, Mountain View, Arkansas; Charles Kevin Compton, Little Rock, Arkansas; Kris David Compton, Hendersonville, North Carolina; James Kent "Ken" Compton, Conway, Arkansas,* each as a general partner and limited partner of the Compton Stone Quarry Family Limited *Partnership, LLLP, and as members of the Compton family control group that also includes Lauren Ashley Compton, Niva Compton Lancaster, Springfield, Missouri, as trustee of the Niva Compton Lancaster GST Exempt Trust, Niva Compton Lancaster as trustee of the Niva Lancaster Revocable Living Trust, Charles Daniels and Sonya Daniels, both of Navarre, Florida, as co-trustees of the Daniels Family Trust Dated 7/12/2006, Sonya Daniels as trustee of the Douglas Lancaster Trust and Charles Kevin Compton as trustee of the Kevin Compton Revocable Trust,* to acquire voting shares of Stone Bancshares, Inc., of Mountain View, Arkansas, and thereby acquire Stone Bank, Mountain View, Arkansas.

Board of Governors of the Federal Reserve System, July 7, 2016.

Margaret Shanks,

Deputy Secretary of the Board.

[FR Doc. 2016–16453 Filed 7–12–16; 8:45 am]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

[Notice–MZ–2016–01; Docket No. 2016–0002; Sequence No. 18]

Notice of Public Meeting Concerning the Unified Shared Services Management Office, Update on the Federal Shared Services Ecosystem

AGENCY: Unified Shared Services Management Office, Office of Government-wide Policy (OGP), General Services Administration (GSA).

ACTION: Meeting notice.

SUMMARY: This meeting is intended to provide industry partners with an

interactive overview of how the ecosystem for shared services is evolving in the Federal Government. This will also be an opportunity for the Government to hear feedback and best practices from industry. Industry partners that offer services and/or systems for the migration, and/or modernization, and/or operations and maintenance of mission support functions in the public and private sectors, are invited to attend.

DATES: *Effective:* July 13, 2016.

MEETING DATE AND LOCATION: This meeting will be held on Monday, August 22, 2016, from 1:00 p.m. until 4:30 p.m. Eastern Standard Time (EST), at the General Services Administration building, 1800 F Street NW., Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Austin Price, Innovation Operations Manager, Unified Shared Services Management, 202–702–7962.

SUPPLEMENTARY INFORMATION: This event is hosted by the Unified Shared Service Management (USSM) office (*www.ussm.gov*), which was established in October of 2015 to enable the delivery of high-quality, high-value shared services that improve performance and efficiency throughout government.

This event is intended to provide industry partners with an interactive overview of how the ecosystem for shared services is evolving in the Federal Government. This will also be an opportunity for the Government to hear feedback and best practices from industry, particularly those outlined in OMB Memorandum 16–11, Improving Administrative Functions through Shared Services (*https://www.whitehouse.gov/sites/default/files/omb/memoranda/2016/m-16-11.pdf*). This event is not related to a specific RFI, RFP, or solicitation.

Industry partners that offer services and/or systems for the migration, and/or modernization, and/or operations and maintenance of mission support functions in the public and private sectors, are invited to attend. The specific focus will be on acquisition, financial management, grants management, human resources, travel, and the technology or services that support these functions.

Topics to be discussed include the following:

- *Modernization and Migration Management (M3) Framework:* A new framework, which includes a playbook and investment review process that agencies will follow when modernizing and/or migrating missions support functions. M3 is designed to help the government achieve successful outcomes and reduce risk during administrative system and service modernizations and migrations.
- *ProviderStat:* A performance framework for Shared Service Providers that drives achievement of goals by establishing an annual cycle, in which executives review data, assess performance, discuss progress, and determine corrective paths forward. This will include an annual customer satisfaction survey and the establishment of criteria for high performing providers.
- *Acquisition Vision for the Ecosystem:* A discussion of the existing acquisition environment, common acquisition challenges, and strategies for harnessing industry solutions and capabilities throughout the shared services lifecycle.

Participants should review the M3 Framework and other supporting materials about USSM initiatives prior to the event by visiting: *https://www.ussm.gov*.

Registration: Participants may register at: *https://meet.gsa.gov/e4xy2fqjkl6/event/event_info.html*.

Each company will be limited to two participants. Preference is for those individuals leading migrations and providing service delivery, as there will be breakout groups where USSM will be seeking industry thought leadership. Seating will be capped at 120 people on a first-come, first-served basis. Registrations must be completed by 5:00 p.m., EST on Monday, August 8, 2016.

Dated: July 7, 2016.

Troy Cribb,

Associate Administrator, Office of Government-wide Policy.

[FR Doc. 2016–16532 Filed 7–12–16; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: HHS–OS–0990-New 30D]

Agency Information Collection Activities; Proposed Collection; Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, announces plans to submit a new Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, OS seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on the ICR must be received on or before August 12, 2016.

ADDRESSES: Submit your comments to *Information.CollectionClearance@hhs.gov* or by calling (202) 690–6162.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information please include the document identifier HHS–OS–0990–New–30D for reference.

Information Collection Request Title: Sustainability Study of Programs Funded by OAH in 2010 (Sustainability Study)

Abstract: The Office of Adolescent Health (OAH), U.S. Department of Health and Human Services (HHS) is requesting approval by OMB on a new collection. The Sustainability study is a key piece of OAH's broad and ongoing effort to comprehensively evaluate all of its funding efforts which consist of: (1) The Teen Pregnancy Prevention Program (TPP); the (2) Pregnancy Assistance Fund (PAF); and the CDC Communitywide program funded in collaboration with the Centers for Disease Control (CDC).

The proposed information request includes the instrument that will collect data on: (1) Whether and how federally-funded programs have been sustained; (2) factors affecting program sustainability; (3) methods and strategies employed by grantees to sustain programs; (4) support and technical assistance that grantees received related to sustaining the programs; and (5) key lessons learned based on the outcomes of these efforts. The data will be analyzed and incorporated into study deliverables that clearly describe former grantees' sustainability efforts for all audiences and highlight key challenges, successes, and lessons learned for future funding and program implementation.

The data will be used for the study team to identify key factors in program sustainability, the strategies that either worked or did not work in sustaining programs over time, and the types of support and assistance grantees required in order to sustain programs. Collecting this data is crucial to closing an existing gap in OAH knowledge about how to support the sustainability efforts of

current and future PAF, TPP, and CDC Communitywide grantees.

Likely Respondents: Program administrators at up to 50 grantee organizations.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Annual number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
In-Depth Interview Master Topic Guide	17	2	1.5	50.0
Total	17			50.0

OS specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Terry S. Clark,

Asst. Information Collection Clearance Officer.

[FR Doc. 2016–16573 Filed 7–8–16; 4:15 pm]

BILLING CODE 4168–11–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Inherited Disease Research Access Committee.

Date: July 15, 2016.

Time: 12:30 p.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Suite 3049, 5635 Fishers Lane, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Barbara J.Thomas, Ph.D., Scientific Review Officer, Scientific Review Branch, National Human Genome Research Institute, National Institutes of Health, 5635 Fishers Lane, Ste. 4076, MSC 9306, Bethesda, MD 20892–9306, 301–402–0838, *barbara.thomas@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: July 6, 2016.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–16506 Filed 7–12–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Eunice Kennedy Shriver National Institute of Child Health and Human Development Special Emphasis Panel; Long-Term Transgenerational Health Impacts of Maternal Obesity and Gestational Diabetes and Their Determinants.

Date: August 23, 2016.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6710B Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Sathasiva B. Kandasamy, Ph.D., Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6710B Rockledge Drive, Room 2131D, Bethesda, MD 20892, (301) 435–6680, *skandasa@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: July 7, 2016.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–16502 Filed 7–12–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Calorie Restriction, IGF–1 and Stress Resistance IV.

Date: August 12, 2016.

Time: 1:30 p.m. to 4:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institute on Aging, Gateway Building, Suite 2W200, 7201 Wisconsin Ave, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Bita Nakhai, Ph.D., Scientific Review Branch, National Institute on Aging, Gateway Bldg., 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814, 301–402–7701, *nakhaib@nia.nih.gov.*
(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: July 6, 2016.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–16508 Filed 7–12–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute, Special Emphasis Panel; TOPMED: Omics Phenotypes of Heart, Lung and Blood Disorders.
Date: August 4, 2016.
Time: 8:30 a.m. to 2:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Courtyard by Marriott, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Chang Sook Kim, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7188, Bethesda, MD 20892–7924, 301–435–0287, *carolko@mail.nih.gov.*
(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: July 7, 2016.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–16507 Filed 7–12–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Rapid Assessment of Zika Virus (ZIKV) Complications (R21).
Date: August 9, 2016.
Time: 11:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20852 (Telephone Conference Call).
Contact Person: Raymond R. Schleef, Ph.D., Senior Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room 3E61, National Institutes of Health/NIAID, 5601 Fishers Lane, MSC 9823, Bethesda, MD 20892–9823, (240) 669–5019, *schleefrr@niaid.nih.gov.*
(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: July 7, 2016.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–16499 Filed 7–12–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review, Special Emphasis Panel, Brain Disorders in Development.
Date: July 14, 2016.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Pat Manos, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5200, MSC 7846, Bethesda, MD 20892, 301–408–9866, *manospa@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review, Special Emphasis Panel, Small Business: Respiratory Sciences.
Date: July 14–15, 2016.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Ghenima Dirami, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4122, MSC 7814, Bethesda, MD 20892, 240–498–7546, *diramig@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review, Special Emphasis Panel, Member Conflict: Brain Injury in Development: Mechanisms of Neuroprotection and Repair.
Date: July 18, 2016.
Time: 12:00 p.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Alessandra C. Rovescalli, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Rm 5205, MSC7846, Bethesda, MD 20892, (301) 435–1021, *rovescaa@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: July 7, 2016.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–16504 Filed 7–12–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Cellular and Molecular Mechanisms of Neurodegeneration and Injury.

Date: July 25, 2016.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Christine A. Piggee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4186, MSC 7850, Bethesda, MD 20892, 301–435–0657, *christine.piggee@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Reproductive Science Topics.

Date: August 2, 2016.

Time: 2:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Clara M. Cheng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6170, MSC 7892, Bethesda, MD 20892, 301–435–1041, *chengc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Neonatology and Pregnancy Topics.

Date: August 5, 2016.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Antonello Pileggi, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6166, Bethesda, MD 20892–7892, (301) 402–6297, *pileggia@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: July 7, 2016.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–16505 Filed 7–12–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, NIAID Resource-Related Research Projects (R24) Applications Peer Review Meeting.

Date: August 10, 2016.

Time: 1:00 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Dharmendar Rathore, Ph.D., Senior Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room 3G30, National Institutes of Health/NIAID, 5601 Fishers Lane, Drive, MSC 9823, Bethesda, MD 20892–9823, 240–669–5058, *rathored@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: July 7, 2016.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–16500 Filed 7–12–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences Amended; Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of General Medical Sciences Special Emphasis Panel, July 15, 2016, 8:00 a.m. to July 15, 2016, 5:00 p.m., Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015 which was published in the **Federal Register** on May 06, 2016, 81 FR 27455.

The meeting notice is amended to change the meeting date and time to July 29, 2016, 10:00 a.m. to 4:00 p.m.

The meeting is closed to the public.

Dated: July 6, 2016.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–16503 Filed 7–12–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice of Diabetes Mellitus Interagency Coordinating Committee Meeting

SUMMARY: The Diabetes Mellitus Interagency Coordinating Committee (DMICC) will hold a meeting on August 3, 2016. The subject of the meeting will be ''An Update on the National Diabetes Prevention Program.'' The meeting is open to the public.

DATES: The meeting will be held on August 3, 2016; from 1:00 p.m. to 5:00 p.m. Individuals wanting to present oral comments must notify the contact person at least 10 days before the meeting date.

ADDRESSES: The meeting will be held in the Democracy 2 Building at 6707 Democracy Blvd., Bethesda, MD, in Conference Room 7050.

FOR FURTHER INFORMATION CONTACT: For further information concerning this meeting, see the DMICC Web site, *www.diabetescommittee.gov,* or contact Dr. B. Tibor Roberts, Executive Secretary of the Diabetes Mellitus Interagency Coordinating Committee, National Institute of Diabetes and Digestive and Kidney Diseases, 31 Center Drive, Building 31A, Room 9A19, MSC 2560, Bethesda, MD 20892–2560, telephone: 301–496–6623; FAX: 301–480–6741; email: *dmicc@mail.nih.gov.*

SUPPLEMENTARY INFORMATION: The DMICC, chaired by the National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK) comprising members of the Department of Health and Human Services and other federal agencies that support diabetes-related activities, facilitates cooperation, communication, and collaboration on diabetes among government entities. DMICC meetings, held several times a year, provide an opportunity for Committee members to learn about and discuss current and future diabetes programs in DMICC member organizations and to identify opportunities for collaboration. The August 3, 2016 DMICC meeting will focus on an Update on the National Diabetes Prevention Program.

Any member of the public interested in presenting oral comments to the Committee should notify the contact person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives or organizations should submit a letter of intent, a brief description of the organization represented, and a written copy of their oral presentation in advance of the meeting. Only one representative of an organization will be allowed to present; oral comments and presentations will be limited to a maximum of 5 minutes. Printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the Committee by forwarding their statement to the contact person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person. Because of time constraints for the meeting, oral comments will be allowed on a first-come, first-serve basis.

Members of the public who would like to receive email notification about future DMICC meetings should register for the listserv available on the DMICC Web site, *www.diabetescommittee.gov.*

Date: July 7, 2016.

B. Tibor Roberts,

Executive Secretary, DMICC, Office of Scientific Program and Policy Analysis, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health.

[FR Doc. 2016–16552 Filed 7–12–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Eunice Kennedy Shriver National Institute of Child Health and Human Development Initial Review Group, Pediatrics Subcommittee.

Date: October 20–21, 2016.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Rita Anand, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6710B Rockledge Drive, Room 2137D, Bethesda, MD 20892, (301) 496–1487, *anandr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: July 7, 2016.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–16501 Filed 7–12–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2016–0002; Internal Agency Docket No. FEMA–B–1630]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new

buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before October 11, 2016.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1630, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW., Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW., Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *http://floodsrp.org/pdfs/srp_fact_sheet.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: June 20, 2016.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

I. Watershed-based studies:

Community	Community map repository address
Lower Columbia Watershed	
Maps Available for Inspection Online at: http://www.fema.gov/preliminaryfloodhazarddata	
Clark County, Washington and Incorporated Areas	
City of Camas	City Hall, 616 North East 4th Avenue, Camas, WA 98607.
City of Washougal	City Hall, 1701 C. Street, Washougal, WA 98671.
Unincorporated Areas of Clark County	Clark County, 1300 Franklin Street, Vancouver, WA 98660.

II. Non-watershed-based studies:

Community	Local map repository address
Maricopa County, Arizona and Incorporated Areas	
Maps Available for Inspection Online at: http://www.fema.gov/preliminaryfloodhazarddata	
Project: 11–09–0876S Preliminary Date: September 30, 2015	
City of Avondale	Development & Engineering Services Department, 11465 West Civic Center Drive, Avondale, AZ 85323.
City of El Mirage	City Hall, 12145 Northwest Grand Avenue, El Mirage, AZ 85335.
City of Glendale	City Hall, 5850 West Glendale Avenue, Glendale, AZ 85301.
City of Goodyear	Engineering Department, 14455 West Van Buren Street, Suite D–101, Goodyear, AZ 85338.
City of Peoria	City Hall, 8401 West Monroe Street, Peoria, AZ 85345.

Community	Local map repository address
City of Phoenix	Street Transportation Department, 200 West Washington Street, 5th Floor, Phoenix, AZ 85003.
City of Tempe	Engineering Department, City Hall, 31 East 5th Street, Tempe, AZ 85281.
Unincorporated Areas of Maricopa County	Flood Control District of Maricopa County, 2801 West Durango Street, Phoenix, AZ 85009.

Community	Community map repository address
Grand Traverse County, Michigan (All Jurisdictions)	
Maps Available for Inspection Online at: http://www.fema.gov/preliminaryfloodhazarddata	
Project: 15–05–6396S Revised Preliminary Date: December 23, 2015	
Grand Traverse Band of Ottawa and Chippewa Indians	Grand Traverse Band of Ottawa and Chippewa Indians Tribal Government, 2605 North West Bay Shore Drive, Peshawbestown, MI 49682.

[FR Doc. 2016–16058 Filed 7–12–16; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–R–2016–N096]; [FXRS12610800000V2–167–FF08RSRC00]

M&T/Llano Seco Fish Screen Facility Long-Term Protection Project; Notice of Intent for Environmental Impact Statement

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent; notice of public scoping meetings; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), in coordination with the California Department of Fish and Wildlife (CDFW), are preparing a joint environmental impact statement/environmental impact report (EIS/EIR) for the proposed M&T/Llano Seco Fish Screen Facility Long-Term Protection Project in Butte County, California. This notice advises the public that we intend to gather information necessary to prepare an EIS pursuant to the National Environmental Policy Act (NEPA). We encourage the public and other agencies to participate in the NEPA scoping process by sending written suggestions and information on the issues and concerns that should be addressed in the draft EIS/EIR, including the range of alternatives, appropriate mitigation measures, and the nature and extent of potential environmental impacts.

DATES: *Submitting Comments:* To ensure that we have adequate time to evaluate and incorporate your suggestions and other input, we must receive your comments on or before August 12, 2016.

Public Meetings: We will hold two public scoping meetings in the city of Chico, California, on July 27, 2016, to receive written and oral comments from the public (see **ADDRESSES**).

ADDRESSES: *Requesting Information and Submitting Comments:* To request further information or submit written comments, please use one of the following methods, and note that your information request or comment is in reference to the M&T/Llano Seco Fish Screen Facility Long-Term Protection Project.

- *U.S. Mail:* Craig Isola, Deputy Project Leader, Sacramento National Wildlife Refuge Complex, U.S. Fish and Wildlife Service, 752 County Road 99W, Willows, CA 95988.
- *Email: craig_isola@fws.gov.*
- *Fax:* Attn: Craig Isola, (530) 934–7814.

Public Meetings: The meetings will be held at 2 p.m. and 6 p.m. at the Chico Masonic Family Center, at 1110 W. East Avenue in Chico. At least one 1 week prior to each meeting, we will announce exact meeting locations and times in local newspapers and on the Internet at *http://www.ducks.org/california/california-projects/m-t-llano-seco-fish-screen-project.*

FOR FURTHER INFORMATION CONTACT: Craig Isola, Deputy Project Leader (530) 934–2801.

SUPPLEMENTARY INFORMATION:

Background

The M&T/Llano Seco Fish Screen Facility (pumping facilities) provides water from the Sacramento River to agricultural operations on the M&T Chico Ranch and Llano Seco Rancho, and to wetlands and associated habitats owned or managed by the Service, the CDFW, and Llano Seco Rancho. The wetland habitat supports resident and migratory waterfowl, shorebirds, and other wetland-dependent and special status species. Prior to 1997, operation of the unscreened M&T diversion pumps on Big Chico Creek created streamflow reversals that caused entrainment and loss of native fish species during migration periods.

In 1997, as part of an effort to reduce impacts to native salmonids, including special status species within the Sacramento River Basin, the M&T/Llano Seco Pumping and Fish Screen Facility was relocated from Big Chico Creek to the east bank of the Sacramento River, just downstream from the confluence of Big Chico Creek. Previous operation of the five unscreened M&T diversion pumps on Big Chico Creek created streamflow reversals that caused entrainment and subsequent loss of juvenile spring-run Chinook salmon during critical downstream migration periods. Additionally, flow reversals caused difficulty for upstream adult spring-run Chinook salmon migrants in the Sacramento River returning to spawn in Big Chico Creek. As part of the relocation, the M&T Chico Ranch/Llano Seco Rancho agreed to bypass (*i.e.,* not to divert) 40 cubic feet per second of their water rights out of Butte Creek during October 1 through June 30, in order to support Butte Creek fisheries. In exchange for this bypass, the ranches could access an equivalent amount of water from the relocated facility on the Sacramento River. This bypass of water

in Butte Creek and the relocation of the pumping plant from Big Chico Creek to the Sacramento River are documented by several signed agreements between M&T and Parrot Investment Company, CDFW, and the Service, including: *Memorandum of Understanding for the Exchange of Water between Butte Creek and the Sacramento River* (MOU); *Agreement for the Relocation of M&T/Parrot Pumping Plant Providing for Bypass of Flows in Butte Creek* (the "bypass agreement"); and *Agreement between the United States and M&T Chico Ranch, Incorporated and Parrot Investment Company Incorporated, for Exchange of Water From Butte Creek for Water From the Sacramento River* ("exchange agreement"). The U.S. Bureau of Reclamation is also a party to the exchange agreement.

Since 1997, unforeseen geomorphic changes in the vicinity of the facility on the Sacramento River have caused sediment deposition (*i.e.,* downstream migration of a gravel bar), posing a significant risk to the continued operation of the pumping facilities and to the operation of City of Chico's Wastewater Treatment Plant outfall, which is downstream of the pumping facilities. To maintain functionality and avoid the consequences associated with the continuing sediment deposition in the vicinity of the pumping facilities, dredging was carried out in 2001 and 2007 just upstream of the pumping facilities. In 2007, a temporary rock toe and tree revetment for bank protection was installed on a 1,520-foot stretch of the west side of the river, across from the pumping facilities, to prevent further river migration to the west and eventual stranding of the pumping facilities. At the time of placement, the rock toe revetment was identified as a temporary impact, and mitigation was developed to address bank swallow and river meander issues. If the revetment is incorporated into the long-term solution, or the long-term solution results in permanent loss of bank swallow habitat, additional mitigation measures above those put in place for the short-term project will be identified and implemented.

To address these issues, the EIS/EIR will present and analyze a range of alternatives that would provide a reliable long-term water supply for agricultural lands and the wildlife refuges while protecting endangered species and their habitats in the Sacramento River.

Proposed Action

The Service and CDFW, along with the M&T Chico Ranch and Llano Seco Rancho, propose to implement measures to protect and maintain the long-term viability of the M&T Chico Ranch/Llano Seco Rancho fish screen and pumping facility, located at approximately River Mile 192.5 on the Sacramento River. Implementation of these measures is intended to comply with CDFW and National Marine Fisheries Service water diversion fish screen criteria and ensure water supply and delivery responsibilities to farmland and Federal and State wildlife areas. These areas include the eastern portion of the Llano Seco Rancho, which is under conservation easement and is served by the M&T/Llano Seco pumping facilities. The facilities provide water from the Sacramento River to wetlands and associated habitats owned or managed by the Service, CDFW, and Llano Seco Rancho, which create wetland habitat for resident and migratory waterfowl, shorebirds, and other wetland dependent and special-status species.

Study Area

The existing pumping facilities are located in Butte County on the eastern bank of the Sacramento River, just downstream of the confluence of Big Chico Creek and the Sacramento River at River Mile 192.5. The rock toe revetment is located across from the existing facilities in Glenn County on the west bank of the Sacramento River. It is located on the Capay Unit of the Sacramento River National Wildlife Refuge and on the adjoining fee-title property owned by Reclamation District 2140 immediately south of the Capay Unit. The Llano Seco Unit of this wildlife refuge is located approximately 7 miles south of the existing facilities on the eastern side of the Sacramento River; it receives its water supply from the existing pumping facilities.

Alternatives

Beginning in 2003, an expert panel of engineers and hydrologists met with stakeholders to develop and assess alternatives for a long-term solution that would provide a reliable water supply for agriculture lands and the wildlife refuges, and protect endangered species and their habitats in the Sacramento River. The panel's assessment was presented in six different workshops between 2003 and 2011, and their work identified a number of technically viable long-term solution alternatives.

We will consider a range of alternatives and their impacts in the EIS/EIR, including the No Action Alternative. The Service will consider the proposed action, which is the development of a long-term strategy for dredging sediment from the river upstream of the existing pumping facilities and maintaining the rock-toe revetment that exists on the west bank of the river. Based on previous planning studies, we will analyze the following alternatives to the proposed action in the EIS/EIR: (1) The installation of nine spur dikes along the west bank of the channel to protect the bank from erosive forces, redirect velocities of water into the central area of the channel, and prevent downstream migration of the gravel bar; (2) development of a strategic plan for long-term dredging upstream of the existing facilities, retention of the existing rock toe revetment, and modification of the existing diversion structure to include cone fish screens; (3) relocation of the pumping/fish screen facilities 2,200 feet downstream on the east bank of the river and retention of the existing rock toe revetment; (4) relocation of the pumping/fish screen facilities 3,600 feet downstream on the east bank of the river and retention of the existing rock toe revetment; (5) relocation of the M&T pumps and intake to the west bank of the Sacramento River; (6) implementation of the two short-term dredging actions upstream of the existing facilities that have already received approvals from State and Federal regulatory agencies and retention of the rock toe revetment; and (7) the no action alternative, with implementation of the two short-term dredging actions and with the removal of the rock toe revetment. The EIS/EIR will include a detailed analysis of the impacts of the proposed action and alternatives. Alternatives 1–6 would include mitigation for the long-term placement of the rock toe revetment on the west side of the Sacramento River that exists under baseline conditions.

The EIS/EIR will identify and analyze potentially significant direct, indirect, and cumulative impacts of the alternatives on agricultural resources, air quality, biological resources, climate change/greenhouse gas emissions, cultural resources, geology/soils/mineral resources, hazards/hazardous materials, water resources/hydrology/water quality, land use/planning, noise, population/housing, public services, recreation/open space, socioeconomics, environmental justice, traffic/transportation, utilities/service systems, and visual resources. The EIS/EIR will also identify mitigation measures for adverse environmental effects.

Required Permits

The agencies that will be involved in the permitting process for this action will be dependent on the alternative action pursued. Table 1 indicates our

understanding of the regulatory agencies relevant to each alternative action.

The public scoping meetings and public comment period are intended to identify the full range of alternative actions and environmental issues relating to the proposed project and any additional permits or agency approvals required as a result.

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Table 1 - M&T/Llano Seco Fish Screen Facility Long-Term Protection Project Permitting and Approval Requirements for Alternatives

Potential Alternative/Action	CDFW		USFWS		NOAA	USACOE		CVFPB	CSLC			CVRWQCB		CDWR	CSHPO	SWRCB	USCG	Butte Cty		Glenn Cty		RD 2140	TNC
Proposed Action. Long-Term																							
Dredging (w/ Existing "Tee" Fish Screen)	X	X	X		X	X		X		X[2]		X	X	X	X		X			X	X	X	
Alternative 1: Nine Spur Dikes	X	X	X	X[1]	X	X		X	X		X	X		X	X		X			X	X	X	X
Alternative 2. Long-Term Dredging (w/ New Cone Fish Screens)	X	X	X	X[1]	X	X		X	X	X[2]		X	X	X	X		X						

Potential Alternative/Action
CESA incidental take authorization
Streambed alternation agreement
ESA consultation
Easement to construct pump
Special use permit for access
ESA consultation
CWA Section 404 permit
CWA Section 408 permit
Rivers & Harbors Act Section 10 permit
Floodway encroachment permit
Lease for revetment removal on public land
Lease for dredging activity on public land
Lease for placement of facilities on public land
CWA Section 401 water quality certification
Natl. Pollution Discharge Elimination System permit
Consistency with flood protection planning (informal consultation)
Section 106 of Natl. Historic Preservation Act compliance[6]
Change in point of diversion approval
Navigation Hazard Permit
Grading permit
Building permit
Grading permit
Building permit
License Agreement
Access agreement
Condemnation by 3rd party

Potential Alternative/Action	CDFW		USFWS			NOAA	USACOE			CVFPB	CSLC			CVRWQCB		CDWR	CSHPO	SWRCB	USCG	Butte Cty		Glenn Cty		RD 2140	TNC	
	CESA incidental take authorization	Streambed alternation agreement	ESA consultation	Easement to construct pump	Special use permit for access	ESA consultation	CWA Section 404 permit	CWA Section 408 permit	Rivers & Harbors Act Section 10 permit	Floodway encroachment permit	Lease for revetment removal on public land	Lease for dredging activity on public land	Lease for placement of facilities on public land	CWA Section 401 water quality certification	Natl. Pollution Discharge Elimination System permit	Consistency with flood protection planning (informal consultation)	Section 106 of Natl. Historic Preservation Act compliance[6]	Change in point of diversion approval	Navigation Hazard Permit	Grading permit	Building permit	Grading permit	Building permit	License Agreement	Access agreement	Condemnation by 3rd party
Alternative 3. Relocation of the Pumping Facilities (Plant and Fish Screen) 2,200 ft. downstream																										
	X	X	X		X[1]	X	X		X	X			X	X		X	X	X	X	X	X	X	X			
Alternative 4. Relocation of the Pumping Facilities (Plant and Fish Screen) 3,600 ft. downstream																										
	X	X	X		X[1]	X	X		X	X			X	X		X	X	X	X	X	X	X	X			
Alternative 5. Relocation of the Pumping Facilities (Plant and Fish Screen) to West Bank of River																										
	X	X	X	X	X[1]	X	X		X	X			X[3]	X		X	X	X	X	X	X	X	X			

Potential Alternative/Action	CDFW		USFWS			NOAA	USACOE			CVFPB	CSLC			CVRWQCB		CDWR	CSHPO	SWRCB	USCG	Butte Cty		Glenn Cty		RD 2140	TNC		
	CESA incidental take authorization	Streambed alternation agreement	ESA consultation	Easement to construct pump	Special use permit for access	ESA consultation	CWA Section 404 permit	CWA Section 408 permit	Rivers & Harbors Act Section 10 permit	Floodway encroachment permit	Lease for revetment removal on public land	Lease for dredging activity on public land	Lease for placement of facilities on public land	CWA Section 401 water quality certification	Natl. Pollution Discharge Elimination System permit	Consistency with flood protection planning (informal consultation)	Section 106 of Natl. Historic Preservation Act compliance[6]	Change in point of diversion approval	Navigation Hazard Permit	Grading permit	Building permit	Grading permit	Building permit	License Agreement	Access agreement	Condemnation by 3rd party
Alternative 6. Short-term Dredging with Retention of Rock toe Revetment					X[5]																						
Alternative 7. No Project[3]	X	X	X			X	X			X	X			X		X[4]			X					X	X		
Removal of Existing Rock toe Revetment[1]	X	X	X		X	X	X	X	X	X	X			X		X[4]	X		X	X	X	X	X	X			

[1] Needed for long-term maintenance of rock toe revetment on west bank of river.
[2] Lease would likely include a tonnage limitation on aggregate removal.
[3] Lease application and EIR/EIS would require detailed description of tunneling technique and safety features.
[4] Consultation with CDWR would require detailed discussion of maintenance requirements for rock removal area.
[5] Some permitting or authorization may be needed to move rock to an off-site storage/disposal/reuse area.
[6] State Lands Commission database of underwater cultural resources should be reviewed in the NEPA/CEQA process.

CDFW: California Fish and Wildlife Service
USFWS: U.S. Fish and Wildlife Service
NOAA: NOAA Fisheries
USACOE: U.S. Army Corps of Engineers
CVFPB: Central Valley Flood Protection Board
CSLC: California State Lands Commission
CVRWQCB: Central Valley Regional Water Quality Control Board
CDWR: California Department of Water Resources
CSHPO: California State Historic Preservation Office
SWRCB: State Water Resources Control Board
USCG: U.S. Coast Guard
Butte Cty: Butte County
Glenn Cty: Glenn County
TNC: The Nature Conservancy

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Public Comment

We are furnishing this notice in accordance with section 1501.7 of the NEPA implementing regulations in order to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS/EIR. We invite written comments from interested parties to ensure identification of the full range of issues.

We request data, comments, new information, or suggestions from the public, other concerned governmental agencies, the scientific community, Tribes, industry, or any other interested party on this notice.

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that the entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Public Scoping Meetings

In addition to providing written comments, the public is encouraged to attend a public scoping meeting to provide us with suggestions and information on the scope of issues and alternatives to consider when drafting the EIS/EIR. See **DATES** for the dates and times of our public meetings.

The primary purpose of these meetings and public comment period is to solicit suggestions and information on the scope of issues and alternatives for the Service to consider when drafting the EIS/EIR. Written comments will be accepted at the meetings. Comments can also be submitted by methods listed in the **ADDRESSES** section. Once the draft EIS/EIR is complete and made available for review, there will be additional opportunity for public comment on the content of these documents.

Persons needing reasonable accommodations in order to attend and participate in the public meetings should contact us at the address listed in the **ADDRESSES** section no later than one week before the public meeting. Information regarding this proposed action is available in alternative formats upon request. We will accept both oral and written comments at the scoping meetings.

NEPA Compliance

We intend to gather information necessary for preparation of the EIS/EIR through this notice and the scoping process.

We will conduct environmental review in accordance with the requirements of NEPA, as amended (42 U.S.C. 4321 *et seq.*), its implementing regulations (40 CFR parts 1500–1508), other applicable regulations, and our procedures for compliance with those regulations. The environmental document will be prepared to meet both the requirements of NEPA and the California Environmental Quality Act (CEQA). The CDFW is the CEQA lead agency. We anticipate that a draft EIS/EIR will be available for public review in the spring of 2017.

Alexandra Pitts,

Acting Regional Director, Pacific Southwest Region.

[FR Doc. 2016–16543 Filed 7–12–16; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLOR931000L63100000.HD000016X]

Renewal of Approved Information Collection; OMB Control No. 1004–0168

AGENCY: Bureau of Land Management, Interior.

ACTION: 60-Day notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), the Bureau of Land Management (BLM) invites public comments on, and plans to request approval to continue, the collection of information from private landowners in western Oregon who are authorized to transport timber over roads controlled by the BLM. The Office of Management and Budget (OMB) has assigned control number 1004–0168 to this information collection.

DATES: Please submit comments on the proposed information collection by September 12, 2016.

ADDRESSES: Comments may be submitted by mail, fax, or electronic mail.

Mail: U.S. Department of the Interior, Bureau of Land Management, 1849 C Street NW., Room 2134LM, Attention: Jean Sonneman, Washington, DC 20240.

Fax: to Jean Sonneman at 202–245–0050.

Electronic mail: Jean_Sonneman@blm.gov.

Please indicate "Attn: 1004–0168" regardless of the form of your comments.

FOR FURTHER INFORMATION CONTACT: Dustin Wharton at 541–471–6659. Persons who use a telecommunication device for the deaf may call the Federal Information Relay Service at 1–800–877–8339, to leave a message for Mr. Wharton.

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR part 1320, which implement provisions of the PRA (44 U.S.C. 3501–3521), require that interested members of the public and affected agencies be given an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d) and 1320.12(a)). This notice identifies an information collection that the BLM plans to submit to OMB for approval. The PRA provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

The BLM will request a 3-year term of approval for this information collection activity. Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany our submission of the information collection requests to OMB.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

The following information pertains to this request:

Title: Tramroads and Logging Roads (43 CFR part 2810).

OMB Control Number: 1004–0168.

Summary: The BLM Oregon State Office has authority under the Act of August 28, 1937 (43 U.S.C. 1181a and 1181b) and subchapter V of the Federal Land Policy and Management Act (43 U.S.C. 1761–1771) to grant rights-of-way to private landowners to transport their

timber over roads controlled by the BLM. This information collection enables the BLM to calculate and collect appropriate fees for this use of public lands.

Frequency of Collection: Annually, biannually, quarterly, or monthly, depending on the terms of the pertinent right-of-way.

Forms: Form 2812–6, Report of Road Use.

Description of Respondents: Private landowners who hold rights-of-way for the use of BLM-controlled roads in western Oregon.

Estimated Annual Responses: 272.

Hours per Response: 8.

Estimated Annual Burden Hours: 2,176.

Estimated Annual Non-Hour Costs: None.

Jean Sonneman,

Information Collection Clearance Officer, Bureau of Land Management.

[FR Doc. 2016–16564 Filed 7–12–16; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[16X L1109AF LLUTW0000000 LR14400000.ET0000; UTU–88639 24 1 A]

Notice of Proposed Withdrawal for Simpson Springs Recreation Management Area and Historic Site and Opportunity for a Public Meeting; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: On behalf of the Bureau of Land Management (BLM), the Assistant Secretary of the Interior for Land and Minerals Management proposes to withdraw, subject to valid existing rights, 747.10 acres of public land from settlement, sale, location and entry under the public land laws, including the United States mining laws, the mineral and geothermal leasing laws, and disposal under the Materials Act of 1947, for a period of 20 years. The proposed withdrawal is needed to protect the unique recreational, historical, and visual resources, and the Federal financial investment at the Simpson Springs Recreation Management Area (SSRMA) and Historic Site in Tooele County, Utah. This notice temporarily segregates the land for up to 2 years from settlement, sale, location and entry under the public land laws, including the United States mining laws, the mineral and geothermal leasing laws, and disposal under the Material Act of 1947, while the application is processed. This notice also gives an opportunity to comment on or request a public meeting in connection with the proposed withdrawal.

DATES: Comments and public meeting requests must be received on or before October 11, 2016.

ADDRESSES: Comments and meeting requests should be sent to the Utah State Director, BLM, 440 West 200 South, Suite 500, Salt Lake City, Utah 84101–1345.

FOR FURTHER INFORMATION CONTACT: Shauna Derbyshire, BLM, Utah State Office, 801–539–4132, *sderbyshire@blm.gov.*

Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The BLM filed an application requesting the Assistant Secretary for Land and Minerals Management to withdraw, subject to valid existing rights, the following described public land from settlement, sale, location and entry under the public land laws, including the United States mining laws, the mineral and geothermal leasing laws, and disposal under the Materials Act of 1947, to protect the unique recreational, historical, and visual resources, and the Federal financial investment at the SSRMA and Historic Site:

Salt Lake Meridian, Utah

T. 9 S., R. 8 W.,
Sec. 7, lot 4, SE¼SW¼, and S½SE¼;
Sec. 17, W½NW¼ and NW¼SW¼;
Sec. 18, lots 1 thru 3, NE¼, E½NW¼, NE1/4SW¼, and N½SE¼.

The area described contains 747.10 acres in Tooele County.

The Assistant Secretary for Land and Minerals Management approved the BLM's petition/application. Therefore, the petition/application constitutes a withdrawal proposal of the Secretary of the Interior (43 CFR 2310.1–3(e)).

The purpose of the proposed withdrawal is to protect the SSRMA's unique recreational opportunities, protect the historic significance of the site and to preserve the visual and natural resources of the area, as well as to ensure that Federal investments used in developing and maintaining the site are protected.

The use of a right-of-way, interagency agreement, cooperative agreement, Special Recreation Management Area designation, or an Area of Critical Environmental Concern designation would not provide adequate protection.

There are no suitable alternative sites available. The historical, visual, and recreational resources are located at the site proposed for withdrawal.

The Simpson Springs has historically been a vital resource of this area. Simpson Springs is within the proposed withdrawal area, as are the developed facilities, which allow the water to be used for recreational, livestock, wildlife and other uses. The BLM has acquired a State of Utah water right, which allows development and use of the water produced by the springs.

Records relating to the application may be examined by contacting the BLM at the above address and phone number.

For a period until October 11, 2016, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the BLM Utah State Director at the address above. Electronic mail, facsimile, or telephone comments will not be considered properly filed.

Comments, including names and street addresses of respondents, and records relating to the application will be available for public review at the BLM-Utah State Office, 440 West 200 South, Suite 500, Salt Lake City, Utah, during regular business hours. Before including your address, phone number, email address or other personal identifying information in your comments, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested parties who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the BLM State Director at the address indicated above by October 11, 2016. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** and a local newspaper at least 30 days before the scheduled date of the meeting.

For a period until July 13, 2018, subject to valid existing rights, the public land described in this notice will be segregated from location and entry under the United States mining laws, the mineral and geothermal leasing laws, and disposal under the Materials Act of 1947, unless the application is denied or canceled or the withdrawal is approved prior to that date.

Licenses, permits, cooperative agreements or discretionary land use authorizations of a temporary nature that would not impact the site may be allowed with the approval of an authorized officer of the BLM during the temporary segregative period.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

Jenna Whitlock,

Acting State Director.

[FR Doc. 2016–16560 Filed 7–12–16; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MTM 75213]

Public Land Order No. 7854; Revocation of Secretarial Order Dated October 13, 1908; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes the withdrawal created by a Secretarial Order insofar as it affects the remaining 100 acres of land in the Gallatin National Forest reserved for use by the United States Forest Service for the Mill Ranger Station. The Forest Service determined the land is no longer needed for administrative site purposes and the revocation is needed to accommodate a pending land exchange.

DATES: This Public Land Order is effective on July 13, 2016.

FOR FURTHER INFORMATION CONTACT: Tami Lorenz, Bureau of Land Management, Montana/Dakotas State Office, 5001 Southgate Drive, Billings, Montana 59101–4669, 406–896–5053. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The 1908 Secretarial Order originally withdrew 160 acres within the Gallatin National Forest for use as administrative sites. In 1916, the Secretarial Order was partially revoked, leaving the remaining 100 acres that are the subject of this revocation. The site was never developed and the United States Forest Service has identified it for disposal. The land is temporarily segregated from the United States mining laws by a pending land exchange proposal.

Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714, it is ordered as follows:

1. The withdrawal created by the Secretarial Order dated October 13, 1908, which withdrew public land for use by the Forest Service as administrative sites, is hereby revoked in its entirety as to the following described land:

Gallatin National Forest

Principal Meridian, Montana

T. 8 S., R. 7 E.,

Sec. 32, E½SW¼ and W½NW¼SE¼.

The area described contains 100 acres in Park County.

2. At 9 a.m. on July 13, 2016, the land described in Paragraph 1 is opened to such forms of disposition as may be made of National Forest System land, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law.

Dated: June 24, 2016.

Janice M. Schneider,

Assistant Secretary—Land and Minerals Management.

[FR Doc. 2016–16562 Filed 7–12–16; 8:45 am]

BILLING CODE 3410–11–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–475 and 731–TA–1177 (Review)]

Certain Aluminum Extrusions From China; Notice of Commission Determination To Conduct Full Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it will proceed with full reviews pursuant to the Tariff Act of 1930 to determine whether revocation of the antidumping and countervailing duty orders on certain aluminum extrusions other than finished heat sinks from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the reviews will be established and announced at a later date.

DATES: *Effective Date:* July 5, 2016.

FOR FURTHER INFORMATION CONTACT: Edward Petronzio (202) 205–3176, Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

SUPPLEMENTARY INFORMATION: On July 5, 2016, the Commission determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)). The Commission found that the domestic interested party group response to its notice of institution (81 FR 18884, April 1, 2016) was adequate. Although the Commission received two responses to its notice of institution from respondent interested parties, the Commission found that the respondent interested party group response was inadequate. The Commission also found that other circumstances warranted conducting full reviews.[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

[1] Chairman Irving A. Williamson and Commissioners Dean A. Pinkert and Rhonda K. Schmidtlein voted to conduct expedited reviews.

By order of the Commission.

Issued: July 7, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–16528 Filed 7–12–16; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–541 and 731–TA–1284 and 1286 (Final)]

Cold-Rolled Steel Flat Products From China and Japan; Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission ("Commission") determines, pursuant to the Tariff Act of 1930 ("the Act"), that an industry in the United States is materially injured by reason of imports of cold-rolled steel flat products from China and Japan, provided for in subheadings 7209.15, 7209.16, 7209.17, 7209.18, 7209.25, 7209.26, 7209.27, 7209.28, 7209.90, 7210.70, 7211.23, 7211.29, 7211.90, 7212.40, 7225.50, 7225.99, and 7226.92 of the Harmonized Tariff Schedule of the United States ("HTSUS"),[2] that have been found by the Department of Commerce ("Commerce") to be sold in the United States at less than fair value ("LTFV"), and that have been found by Commerce to be subsidized by the government of China.[3]

Background

The Commission, pursuant to sections 705(b) and 735(b) of the Act (19 U.S.C. 1671d(b) and 19 U.S.C. 1673d(b)), instituted these investigations effective July 28, 2015, following receipt of a petition filed with the Commission and Commerce by AK Steel Corporation (West Chester, Ohio), ArcelorMittal USA LLC (Chicago, Illinois), Nucor Corporation (Charlotte, North Carolina), Steel Dynamics, Inc. (Fort Wayne, Indiana), and United States Steel Corporation (Pittsburgh, Pennsylvania). The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of cold-rolled steel flat products from China were subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)) and imports of cold-rolled steel flat products from China and Japan were dumped within the meaning of 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on March 23, 2016 (81 FR 15559). The hearing was held in Washington, DC, on May 24, 2016, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission made these determinations pursuant to sections 705(b) and 735(b) of the Act (19 U.S.C. 1671d(b) and 19 U.S.C. 1673d(b)). It completed and filed its determinations in these investigations on July 7, 2016. The views of the Commission are contained in USITC Publication 4619 (July 2016), entitled *Cold-Rolled Steel Flat Products from China and Japan (Investigation Nos. 701–TA–541 and 731–TA–1284 and 1286 (Final).*

By order of the Commission.

Issued: July 7, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–16526 Filed 7–12–16; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–986]

Certain Diaper Disposal Systems and Components Thereof, Including Diaper Refill Cassettes; Commission Determination Not To Review an Initial Determination Terminating the Investigation Based on a Withdrawal of the Complaint; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination ("ID") (Order No. 9) issued by the presiding administrative law judge ("ALJ") on June 14, 2016, granting the complainants' unopposed motion to terminate the investigation based on a withdrawal of the complaint. This investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Robert Needham, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–5468. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on February 29, 2016, based on a complaint filed by Edgewell Personal Care Brands, LLC, of Chesterfield, Missouri, and International Refills Company, Ltd., of Christ Church, Barbados (collectively, "Complainants"). 81 FR 10277–78. The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 ("section 337"), in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain diaper disposal systems and components thereof, including diaper refill cassettes, by reason of infringement of certain claims of U.S. Patent Nos. 6,974,029 and 8,899,420. *Id.* at 10277. The Commission's notice of investigation named as respondents Munchkin, Inc., of Van Nuys, California; Munchkin Baby Canada Ltd., of Brampton, Ontario, Canada; and Lianyungang Brilliant Daily Products Co. Ltd., of Lianyungang, China. *Id.* at 10278. The Office of Unfair Import Investigations is not participating in this investigation. *Id.* Complainants amended their complaint to add as respondents Lianyungang Rainbow Daily Products Co., Ltd., of Lianyungang, China; and Munchkin Asia Limited, of Hong Kong. Order No. 7 (Apr. 8, 2016), *not reviewed* Notice (Apr. 22, 2016).

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Commerce's scope indicates that such imports may also enter under the HTS subheadings 7210.90, 7212.50, 7215.10, 7215.50, 7215.90, 7217.10, 7217.90, 7225.19, 7226.19, 7226.99, 7228.50, 7228.60, and 7229.90 (81 FR 32721, May 24, 2016; 81 FR 32725, May 24, 2016; and 81 FR 32729, May 24, 2016).

[3] All six Commissioners voted in the affirmative. The Commission also finds that imports from China and Japan subject to Commerce's affirmative critical circumstances determinations are not likely to undermine seriously the remedial effect of the countervailing and antidumping duty orders on cold-rolled steel flat products from China and the antidumping duty order on such products from Japan.

On June 10, 2016, Complainants moved to terminate the investigation based on their withdrawal of the complaint. No party responded to the motion.

On June 14, 2016, the ALJ issued the subject ID, granting Complainants' motion and terminating the investigation. No petitions for review were filed.

The Commission has determined not to review the subject ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: July 7, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–16523 Filed 7–12–16; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–287 (Second Review)]

Raw In-Shell Pistachios From Iran; Notice of Commission Determination To Conduct a Full Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it will proceed with a full review pursuant to the Tariff Act of 1930 to determine whether revocation of the antidumping duty order on raw in-shell pistachios from Iran would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the review will be established and announced at a later date.

DATES: *Effective Date:* July 5, 2016.

FOR FURTHER INFORMATION CONTACT: Chris Cassise (202) 708–5408, Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

SUPPLEMENTARY INFORMATION: On July 5, 2016, the Commission determined that it should proceed to a full review in the subject five-year review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)). The Commission found that the domestic interested party group response to its notice of institution (81 FR 18882, April 1, 2016) was adequate. Although the Commission received a response to its notice of institution from respondent interested parties, the Commission found that the respondent interested party group response with respect to the reviews on subject imports from Iran was inadequate.[1] The Commission also found that other circumstances warranted conducting a full review. A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: July 7, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–16525 Filed 7–12–16; 8:45 am]

BILLING CODE 7020–02–P

[1] Commissioner Broadbent determined that the respondent group response was adequate.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Janssen Pharmaceutical, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before August 12, 2016. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before August 12, 2016.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152. Comments and requests for hearings on applications to import narcotic raw material are not appropriate. 72 FR 3417 (January 25, 2007).

SUPPLEMENTARY INFORMATION: The Attorney General has delegated her authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers importers, and exporters of, controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on April 11, 2016, Janssen Pharmaceutical, Inc., 1440 Olympic Drive, Athens, Georgia 30601 applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Schedule
Phenylacetone (8501)	II
Thebaine (9333)	II
Poppy Straw Concentrate (9670)	II
Tapentadol (9780)	II

The company plans to import thebaine derivatives (9333) as reference standards. The company plans to import an intermediate form of tapentadol (9780) to bulk manufacture tapentadol for distribution to its customers. The

company plans to import phenylacetone (8501) and poppy straw concentrate (9670) to manufacture other controlled substances.

Dated: July 5, 2016.

Louis J. Milione,

Deputy Assistant Administrator.

[FR Doc. 2016–16551 Filed 7–12–16; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Noramco, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before August 12, 2016. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before August 12, 2016.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152. Comments and requests for hearings on applications to import narcotic raw material are not appropriate. 72 FR 3417 (January 25, 2007).

SUPPLEMENTARY INFORMATION: The Attorney General has delegated her authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers importers, and exporters of, controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control ("Deputy Assistant Administrator") pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on April 4, 2016, Noramco, Inc., 1440 Olympic Drive, Athens, Georgia 30601 applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Schedule
Phenylacetone (8501)	II
Thebaine (9333)	II
Poppy Straw Concentrate (9670)	II
Tapentadol (9780)	II

The company plans to import thebaine derivatives (9333) as reference standards. The company plans to import an intermediate form of tapentadol (9780) to bulk manufacture tapentadol for distribution to its customers. The company plans to import phenylacetone (8501) and poppy straw concentrate (9670) to manufacture other controlled substances.

Dated: July 5, 2016.

Louis J. Milione,

Deputy Assistant Administrator.

[FR Doc. 2016–16550 Filed 7–12–16; 8:45 am]

BILLING CODE 4410–09–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 16–053]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the NASA Advisory Council.

DATES: Thursday, July 28, 2016, 9:00 a.m.–5:00 p.m., Local Time; and Friday, July 29, 2016, 9:00 a.m.–12:00 p.m., Local Time.

ADDRESSES: Ohio Aerospace Institute, President's Room, 22800 Cedar Point Road, Cleveland, Ohio 44142.

FOR FURTHER INFORMATION CONTACT: Ms. Marla King, NAC Administrative Officer, NASA Headquarters, Washington, DC 20546, (202) 358–1148.

SUPPLEMENTARY INFORMATION: This meeting will be open to the public up to the capacity of the meeting room. This meeting is also available telephonically and by WebEx. You must use a touch-tone phone to participate in this meeting. Any interested person may dial the USA toll number 1–630–395–0279 or toll free number 1–888–989–4389, Passcode: 3927350 followed by the # sign for both days. To join via WebEx, the link is *https://nasa.webex.com/*, the meeting number for July 28 is 991 445 749 and the password is nacgrc0728* (case sensitive). The meeting number for July 29 is 998 630 315 and the password is nacgrc0729+ (case sensitive).

The agenda for the meeting will include reports from the following:

—Aeronautics Committee
—Human Exploration and Operations Committee
—Institutional Committee
—Science Committee
—Technology, Innovation and Engineering Committee
—Ad Hoc Task Force on STEM Education

Attendees will be required to sign a register. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2016–16548 Filed 7–12–16; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

Meetings of Humanities Panel

AGENCY: National Endowment for the Humanities, National Foundation on the Arts and the Humanities.

ACTION: Notice of meetings.

SUMMARY: The National Endowment for the Humanities will hold twenty-four meetings of the Humanities Panel, a federal advisory committee, during August, 2016. The purpose of the meetings is for panel review, discussion, evaluation, and recommendation of applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965.

DATES: See **SUPPLEMENTARY INFORMATION** section for meeting dates. The meetings will open at 8:30 a.m. and will adjourn by 5:00 p.m. on the dates specified below.

ADDRESSES: The meetings will be held at the National Endowment for the Humanities at Constitution Center at 400 7th Street SW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Elizabeth Voyatzis, Committee Management Officer, 400 7th Street SW., Room 4060, Washington, DC 20506; (202) 606–8322; *evoyatzis@neh.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given of the following meetings:

1. *Date:* August 1, 2016.
This meeting will discuss applications on the subject of Asian Studies for Fellowships for University Teachers, submitted to the Division of Research Programs.

2. *Date:* August 1, 2016.
This meeting will discuss applications on the subject of Asian Studies for Fellowships for University Teachers, submitted to the Division of Research Programs.

3. *Date:* August 2, 2016.
This meeting will discuss applications on the subjects of Anthropology and New World Archaeology for Fellowships for University Teachers, submitted to the Division of Research Programs.

4. *Date:* August 2, 2016.
This meeting will discuss applications on the subjects of Romance Literature and Studies for Fellowships for University Teachers, submitted to the Division of Research Programs.

5. *Date:* August 3, 2016.
This meeting will discuss applications on the subjects of American Literature and Studies for Fellowships for University Teachers, submitted to the Division of Research Programs.

6. *Date:* August 3, 2016.
This meeting will discuss applications on the subject of Latin American History for Fellowships for University Teachers, submitted to the Division of Research Programs.

7. *Date:* August 4, 2016.
This meeting will discuss applications on the subject of European History for Fellowships for University Teachers, submitted to the Division of Research Programs.

8. *Date:* August 4, 2016.
This meeting will discuss applications on the subject of European History for Fellowships for University Teachers, submitted to the Division of Research Programs.

9. *Date:* August 8, 2016.
This meeting will discuss applications on the subject of African Studies for Fellowships for University Teachers, submitted to the Division of Research Programs.

10. *Date:* August 8, 2016.
This meeting will discuss applications on the subjects of Social Sciences and the History of Science for Fellowships for University Teachers, submitted to the Division of Research Programs.

11. *Date:* August 8, 2016.
This meeting will discuss applications for the Preservation and Access Education and Training grant program, submitted to the Division of Preservation and Access.

12. *Date:* August 9, 2016.
This meeting will discuss applications for the Preservation and Access Education and Training grant program, submitted to the Division of Preservation and Access.

13. *Date:* August 9, 2016.
This meeting will discuss applications on the subject of American History for Fellowships for University Teachers, submitted to the Division of Research Programs.

14. *Date:* August 10, 2016.
This meeting will discuss applications on the subjects of Medieval and Renaissance Studies for Fellowships for University Teachers, submitted to the Division of Research Programs.

15. *Date:* August 11, 2016.
This meeting will discuss applications on the subjects of Ancient and Classical Studies and Old World Archaeology for Fellowships for University Teachers, submitted to the Division of Research Programs.

16. *Date:* August 11, 2016.
This meeting will discuss applications on the subjects of Latin American and Latino Studies for Fellowships for University Teachers, submitted to the Division of Research Programs.

17. *Date:* August 12, 2016.
This meeting will discuss applications on the subjects of Literature, Arts, Communication, and Media for NEH-Mellon Fellowships for Digital Publication, submitted to the Division of Research Programs.

18. *Date:* August 15, 2016.
This meeting will discuss applications on the subjects of American History, Literature and Studies for NEH-Mellon Fellowships for Digital Publication, submitted to the Division of Research Programs.

19. *Date:* August 15, 2016.
This meeting will discuss applications on the subjects of World History, Linguistics, and Anthropology for NEH-Mellon Fellowships for Digital Publication, submitted to the Division of Research Programs.

20. *Date:* August 16, 2016.
This meeting will discuss applications on the subjects of Classics, Philosophy, Religion, and European History for NEH-Mellon Fellowships for Digital Publication, submitted to the Division of Research Programs.

21. *Date:* August 22, 2016.
This meeting will discuss applications on the subject of Media and Digital Preservation for the Research and Development grant program, submitted to the Division of Preservation and Access.

22. *Date:* August 23, 2016.
This meeting will discuss applications on the subjects of Cultural Heritage, Material Culture, and Visualization for the Research and Development grant program, submitted to the Division of Preservation and Access.

23. *Date:* August 24, 2016.
This meeting will discuss applications on the subject of Conservation Science for the Research and Development grant program, submitted to the Division of Preservation and Access.

24. *Date:* August 31, 2016.
This meeting will discuss applications on the subject of U.S. History for Digital Projects for the Public: Discovery Grants, submitted to the Division of Public Programs.

Because these meetings will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, the meetings will be closed to the public pursuant to sections 552b(c)(4) and 552b(c)(6) of Title 5, U.S.C., as amended. I have made this determination pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings dated April 15, 2016.

Dated: July 7, 2016.

Elizabeth Voyatzis,

Committee Management Officer.

[FR Doc. 2016–16468 Filed 7–12–16; 8:45 am]

BILLING CODE 7536–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0053]

Program-Specific Guidance About Possession Licenses for Manufacturing and Distribution

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft NUREG; request for comments.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is revising its licensing guidance for possession licenses for manufacturing and distribution. The NRC is requesting public comment on draft NUREG–1556, Volume 12, Revision 1, ''Consolidated Guidance about Materials Licenses: Program-Specific Guidance about Possession Licenses for Manufacturing and Distribution.'' The document has been updated from the previous revision to include information on safety culture, security of radioactive materials, protection of sensitive information, and changes in regulatory policies and practices. This document is intended for use by applicants, licensees, and the NRC staff.

DATES: Submit comments by August 12, 2016. Comments received after this date will be considered if it is practical to do so, but the NRC is only able to assure consideration of comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0053. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov*. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: OWFN–12–H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on accessing information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Eric Reber, Office of Nuclear Material Safety and Safeguards; U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–5608; email: *Eric.Reber@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2016–0053 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this action by the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0053.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''ADAMS Public Documents'' and then select ''*Begin Web-based ADAMS Search*.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The draft NUREG–1556, Volume 12, Revision 1, is available in ADAMS under Accession No. ML16182A163.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

The draft NUREG–1556, Volume 12, Revision 1, is also available on the NRC's public Web site on: (1) The ''Consolidated Guidance About Materials Licenses (NUREG–1556)'' page at *http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1556/*; and (2) the ''Draft NUREG-Series Publications for Comment'' page at *http://www.nrc.gov/public-involve/doc-comment.html#nuregs*.

B. Submitting Comments

Please include Docket ID NRC–2016–0053 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS, and the NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, you should inform these persons that they should not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission.

II. Further Information

The NUREG provides guidance to current holders of possession licenses for manufacturing and distribution and to an applicant in preparing an application for such a license. The NUREG also provides the NRC with criteria for evaluating a license application. The purpose of this notice is to provide the public with an opportunity to review and provide comments on draft NUREG–1556, Volume 12, Revision 1, ''Consolidated Guidance about Materials Licenses: Program-Specific Guidance about Licenses for Manufacturing and Distribution.'' Comments submitted in response to this notice will be considered in the final version or subsequent revisions.

Dated at Rockville, Maryland, this 6th day of July 2016.

For the U.S. Nuclear Regulatory Commission.

Daniel S. Collins,

Director, Division of Material Safety, State, Tribal and Rulemaking Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2016–16559 Filed 7–12–16; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0077]

Information Collection: Policy Statement for the ''Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof By States Through Agreement,'' Maintenance of Existing Agreement State Programs, Request for Information Through the Integrated Materials Performance Evaluation Program (IMPEP) Questionnaire, and Agreement State Participation in IMPEP

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, ''Policy Statement for the 'Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof By States Through Agreement,' Maintenance of Existing Agreement State Programs, Request for Information Through the Integrated Materials Performance Evaluation Program (IMPEP) Questionnaire, and Agreement State Participation in IMPEP.''

DATES: Submit comments by September 12, 2016. Comments received after this

date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0077. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov*. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *Mail comments to:* David Cullison, Office of the Chief Information Officer, Mail Stop: T–5 F53, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see "Obtaining Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: David Cullison, Office of the Chief Information Officer U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@NRC.GOV*.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2016–0077 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0077. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2016–0077 on this Web site.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html*. To begin the search, select "*ADAMS Public Documents*" and then select "*Begin Web-based ADAMS Search.*" For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession No. ML16099A050. The supporting statement is available in ADAMS under Accession No. ML16099A055.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

• *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@NRC.GOV*.

B. Submitting Comments

Please include Docket ID NRC–2016–0077 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS, and the NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* Policy Statement for the "Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof By States Through Agreement," Maintenance of Existing Agreement State Programs, Request for Information Through the IMPEP Questionnaire, and Agreement State Participation in IMPEP.

2. *OMB approval number:* 3150–0183.

3. *Type of submission:* Extension.

4. *The form number, if applicable:* Not Applicable.

5. *How often the collection is required or requested:* Every 4 years for completion of the IMPEP questionnaire in preparation for an IMPEP review. One time for new Agreement State applications. Annually for participation by Agreement States in the IMPEP reviews and fulfilling requirements for Agreement States to maintain their programs.

6. *Who will be required or asked to respond:* All Agreement States (37 Agreement States who have signed Agreements with NRC under Section 274b. of the Atomic Energy Act (Act)) and any non-Agreement State seeking to sign an Agreement with the Commission.

7. *The estimated number of annual responses:* 59.

8. *The estimated number of annual respondents:* 39 (37 existing Agreement States plus 2 applicants).

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 287,893 hours (an average of 7,382 hours per respondent). This includes 477 hours to complete the IMPEP questionnaires; 5,500 hours to prepare two new Agreement State applications, 396 hours for participation in IMPEP reviews; and 281,520 hours for maintaining Existing Agreement State programs.

10. *Abstract:* The States wishing to become Agreement States are requested to provide certain information to the NRC as specified by the Commission's Policy Statement, "Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof By States Through Agreement." The Agreement States need to ensure that the radiation control program under the Agreement remains adequate and compatible with the requirements of Section 274 of the Act and must maintain certain information.

The NRC conducts periodic evaluations through IMPEP to ensure that these programs are compatible with the NRC's program, meet the applicable parts of the Act, and adequate to protect public health and safety.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to

properly perform its functions? Does the information have practical utility?

2. Is the estimate of the burden of the information collection accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated at Rockville, Maryland, this 7th day of July, 2016.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2016–16489 Filed 7–12–16; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Request for a License To Export High-Enriched Uranium

Pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) 110.70 (b) "Public Notice of Receipt of an Application," please take notice that the U.S. Nuclear Regulatory Commission (NRC) has received the following request for an export license. Copies of the request are available electronically through the Agencywide Documents Access and Management System and can be accessed through the Public Electronic Reading Room link *http://www.nrc.gov/reading-rm.html* at the NRC Homepage.

A request for a hearing or petition for leave to intervene may be filed within thirty 30 days after publication of this notice in the **Federal Register** (FR). Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555; the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555; and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

A request for a hearing or petition for leave to intervene may be filed with the NRC electronically in accordance with NRC's E-Filing rule promulgated in August 2007, 72 FR 49139; August 28, 2007. Information about filing electronically is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* To ensure timely electronic filing, at least 5 days prior to the filing deadline, the petitioner/requestor should contact the Office of the Secretary by email at *HEARINGDOCKET@NRC.GOV,* or by calling (301) 415–1677, to request a digital ID certificate and allow for the creation of an electronic docket.

In addition to a request for hearing or petition for leave to intervene, written comments, in accordance with 10 CFR 110.81, should be submitted within thirty days after publication of this notice in the **Federal Register** to Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Rulemaking and Adjudications.

The information concerning this application for an export license follows.

NRC Export License Application—Description of Material

Name of applicant Date of application Date received Application No. Docket No.	Material type	Total quantity	End use	Destination
Edlow International Company as Agent for SCK–CEN. May 18, 2016. June 03, 2016. XSNM3771. 11006235.	High-Enriched Uranium (93.20 WGT %).	134.208 kilograms (kg) uranium-235 contained in 144 kg uranium.	For fuel reload at the BR–2 Research Reactor.	Belgium.

For The Nuclear Regulatory Commission.

Dated this 5th day of July, 2016, at Rockville, Maryland.

David L. Skeen,

Deputy Director, Office of International Programs.

[FR Doc. 2016–16557 Filed 7–12–16; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2015–0202]

Protection Against Extreme Wind Events and Missiles for Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Revision 2 to Regulatory Guide (RG) 1.117, Protection Against Extreme Wind Events and Missiles for Nuclear Power Plants." This RG describes an approach that the NRC staff considers acceptable for identifying those structures, systems, and components of light water cooled reactors that should be protected from the effects of the worst case extreme winds and wind-generated missiles, so they remain functional.

DATES: Revision 2 to RG 1.117 is available on July 13, 2016.

ADDRESSES: Please refer to Docket ID NRC–2015–0202 when contacting the NRC about the availability of information regarding this document. You may obtain publically-available information related to this document, using the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0202. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Document collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select "ADAMS Public Documents" and then select "*Begin Web-based ADAMS Search.*" For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in

ADAMS) is provided the first time that it is mentioned in this document. Revision 2 to Regulatory Guide 1.117, and the regulatory analysis may be found in ADAMS under Accession No. ML15356A213 and ML14356A106, respectively.

- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

FOR FURTHER INFORMATION CONTACT: Gordon Curran, Office of Nuclear Reactor Regulation, telephone: 301–415–1247, email: *Gordon.Curran@nrc.gov;* and Stephen Burton, Office of Nuclear Regulatory Research, telephone: 301–415–7000, email: *Stephen.Burton@nrc.gov.* Both are staff members of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is issuing a revision to an existing guide in the NRC's "Regulatory Guide" series. This series was developed to describe and make available to the public information regarding methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the NRC staff uses in evaluating specific issues or postulated events, and data that the NRC staff needs in its review of applications for permits and licenses.

Revision 2 of RG 1.117 was issued with a temporary identification of Draft Regulatory Guide, DG–1313. This guide is being revised to address new issues identified since the NRC originally issued the guide. As indicated in RG 1.76, "Design Basis Tornado and Tornado Missiles for Nuclear Power Plants" (ADAMS Accession No. ML070360253), tornado wind speeds may not bound hurricane wind speeds for certain portions of the Atlantic and gulf coasts. In this case, the structures, systems, and components should be designed to withstand the effects of the design basis hurricane and hurricane-generated missiles so that they remain functional, as defined in RG 1.221, "Design Basis Hurricane and Hurricane Missiles for Nuclear Power Plants" (ADAMS Accession No. ML110940300). In addition, the title has been updated to better reflect the purpose of the guidance.

II. Additional Information

The NRC published a notice of Availability of DG–1313 in the **Federal Register** on August 28, 2015 (80 FR 52346), for a 60-day public comment period. The public comment period closed on October 27, 2015. Public comments on DG–1313 and the NRC staff's responses to the public comments are available in ADAMS under Accession No. ML15356A214.

III. Congressional Review Act

This regulatory guide is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

IV. Backfitting and Issue Finality

This regulatory guide describes methods and procedures that the staff considers acceptable for use in identifying those structures, systems, and components (SSCs) of light water cooled reactors that should be protected from the effects of the worst case extreme winds and wind-generated missiles, so that they remain functional. Although not expressly stated in DG–1313, the regulatory guidance in this regulatory guide is directed at applicants for nuclear power reactor construction permits and operating licenses under part 50 of title 10 of the *Code of Federal Regulations* (10 CFR), applicants for standard design certifications under subpart B of 10 CFR part 52, and combined licenses under subpart C of part 52.

This does not constitute backfitting as defined in 10 CFR 50.109 (the Backfit Rule) and is not otherwise inconsistent with the issue finality provisions in 10 CFR part 52, "Licenses, Certifications and Approvals for Nuclear Power Plants." Applicants and potential applicants are not, with certain exceptions, protected by either the Backfit Rule or any issue finality provisions under part 52. Neither the Backfit Rule nor the issue finality provisions under part 52—with certain exclusions discussed below—were intended to apply to every NRC action that substantially changes the expectations of current and future applicants.

The exceptions to the general principle are applicable whenever a combined license applicant references a part 52 license (*i.e.,* an early site permit or a manufacturing license) and/or part 52 regulatory approval (*i.e.,* a design certification rule or design approval). The NRC staff does not, at this time, intend to impose the positions represented in the regulatory guide in a manner that is inconsistent with any issue finality provisions in these part 52 licenses and regulatory approvals. If, in the future, the staff seeks to impose a position in this regulatory guide in a manner that does not provide issue finality as described in the applicable issue finality provision, then the NRC staff must address the issue finality criteria in the applicable issue finality provision (10 CFR 52.63 for standard design certification rules, and 10 CFR 52.98 for combined licenses).

Existing licensees and applicants of final design certification rules will not be required to comply with the positions set forth in this regulatory guide unless the licensee or design certification rule applicant seeks a voluntary change to its licensing basis with respect to the inclusion or exclusion of SSCs that must be protected against extreme winds and extreme wind effects. In such cases, backfitting and issue finality will not apply if the NRC determines that the safety review of the licensee-initiated or applicant-initiated change must include reconsideration of the methods and procedures used in identifying those SSCs. Further information on the staff's use of the regulatory guide is contained in the regulatory guide under Section D. Implementation.

Dated at Rockville, Maryland, this 1st day of July, 2016.

For the Nuclear Regulatory Commission.

Harriet Karagiannis,

Acting Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2016–16553 Filed 7–12–16; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0126]

Physical Security Hardware—Inspections, Tests, Analyses, and Acceptance Criteria

AGENCY: Nuclear Regulatory Commission.

ACTION: Standard review plan-draft section revision: Request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is soliciting public comment on draft NUREG–0800, "Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants: LWR Edition," Section 14.3.12, "Physical Security Hardware—Inspections, Tests, Analyses, and

Acceptance Criteria.'' The NRC seeks comments on the draft section revision of the standard review plan (SRP) concerning inspections, tests, analyses, and acceptance criteria (ITAAC) related to physical security hardware (PS–ITAAC).

DATES: Comments must be filed no later than August 12, 2016. Comments received after this date will be considered, if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0126. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3463; email: *Carol.Gallagher@nrc.gov*. For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: OWFN–12–H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on accessing information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Mark Notich, Office of New Reactors, telephone: 301–415–3053, email: *Mark.Notich@nrc.gov;* or Nishka Devaser, Office of New Reactors, telephone: 301–415–5196; email: *Nishka.Devaser@nrc.gov,* U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2016–0126 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document by any of the following methods:

- *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0126.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html*. To begin the search, select *''ADAMS Public Documents''* and then select *''Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The ADAMS accession numbers for the draft revision, current revision, and redline strikeout comparing the current revision and the draft revision of the section are available in ADAMS under the following accession numbers: Draft revision 2 (ML16032A050), current revision 1 (ML100970568), and redline strikeout (ML16032A096).
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2016–0126 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Further Information

The NRC seeks public comment on the draft section revision of the SRP. This section has been revised to assist NRC staff with the review of PS–ITAAC in a combined license application or a design certification application. The PS–ITAAC are reviewed to determine whether the designs and specifications for PS–ITAAC are in accordance with the applicable regulatory requirements of 10 CFR part 73.

Revision 2 to SRP Section 14.3.12 incorporates the requirements for vehicle control measures under § 73.55(e)(10)(i)(B) of title 10 of the *Code of Federal Regulations* (10 CFR) and incorporates recommendations from NRC Regulatory Issue Summary 2008–05, ''Lessons Learned to Improve Inspections, Tests, Analyses, and Acceptance Criteria Submittal'' revision 1, September 23, 2010. The technical changes in accordance with the new § 73.55 are incorporated in each section of this revision (since Revision 1 of this section, dated April 2010) of the SRP as applicable.

Following NRC staff evaluation of public comments, the NRC intends to incorporate the final approved guidance into the next revision of NUREG–0800. The SRP is guidance for the NRC staff. The SRP is not a substitute for the NRC regulations, and compliance with the SRP is not required.

III. Backfitting and Issue Finality

Issuance of this draft SRP, if finalized, would not constitute backfitting as defined in § 50.109 of 10 CFR, (the Backfit Rule) or otherwise be inconsistent with the issue finality provisions in 10 CFR part 52. The NRC's position is based upon the following considerations.

1. The draft SRP positions, if finalized, would not constitute backfitting, inasmuch as the SRP is internal guidance directed at the NRC staff with respect to their regulatory responsibilities.

The SRP provides guidance to the NRC staff on how to review an application for NRC regulatory approval in the form of licensing. Changes in internal NRC staff guidance are not matters for which either nuclear power plant applicants or licensees are protected under either the Backfit Rule or the issue finality provisions of 10 CFR part 52.

2. The NRC staff has no intention to impose the SRP positions on current licensees or already-issued regulatory approvals either now or in the future.

The NRC staff does not intend to impose or apply the positions described in the draft SRP to existing (already issued) licenses and regulatory approvals. Hence, the issuance of a final SRP—even if considered guidance which is within the purview of the issue finality provisions in 10 CFR part 52—need not be evaluated as if it were a backfit or as being inconsistent with issue finality provisions. If, in the future, the NRC staff seeks to impose a position in the SRP on holders of already issued holders of licenses SRP in a manner which does not provide issue finality as described in the applicable issue finality provision, then the NRC staff must make the showing as

set forth in the Backfit Rule or address the criteria for avoiding issue finality as described applicable issue finality provision.

3. Backfitting and issue finality do not—with limited exceptions not applicable here—protect current or future applicants.

Applicants and potential applicants are not, with certain exceptions, protected by either the Backfit Rule or any issue finality provisions under 10 CFR part 52. This is because neither the Backfit Rule nor the issue finality provisions under 10 CFR part 52—with certain exclusions discussed below—were intended to apply to every NRC action which substantially changes the expectations of current and future applicants.

The exceptions to the general principle are applicable whenever an applicant references a 10 CFR part 52 license (*e.g.,* an early site permit) and/or NRC regulatory approval (*e.g.,* a design certification rule) with specified issue finality provisions. The NRC staff does not, at this time, intend to impose the positions represented in the draft SRP in a manner that is inconsistent with any issue finality provisions. If, in the future, the NRC staff seeks to impose a position in the draft SRP in a manner which does not provide issue finality as described in the applicable issue finality provision, then the NRC staff must address the criteria for avoiding issue finality as described in the applicable issue finality provision.

Dated at Rockville, Maryland, this 5th day of July 2016.

For the Nuclear Regulatory Commission.

Joseph Colaccino,

Chief, New Reactor Rulemaking and Guidance Branch, Division of Engineering, Infrastructure and Advanced Reactors, Office of New Reactors.

[FR Doc. 2016–16469 Filed 7–12–16; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2016–237]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* July 14, 2016.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's Web site (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2016–237; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* July 6, 2016; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*; *Public Representative:* Kenneth R. Moeller; *Comments Due:* July 14, 2016.

This notice will be published in the **Federal Register**.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2016–16457 Filed 7–12–16; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. R2011–6]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* July 18, 2016.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or

the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's Web site (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* R2011–6; *Filing Title:* Notice of United States Postal Service Providing Update Concerning Exprès Service Agreement; *Filing Acceptance Date:* July 7, 2016; *Filing Authority:* 39 U.S.C. 3622 and 39 CFR 3010.40 *et seq.; Public Representative:* Katalin K. Clendenin; *Comments Due:* July 18, 2016.

This notice will be published in the **Federal Register**.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2016–16545 Filed 7–12–16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78251; File No. SR–NASDAQ–2016–093]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt Rules To Implement the Quoting and Trading Provisions of the Plan To Implement a Tick Size Pilot Program

July 7, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 24, 2016, The NASDAQ Stock Market LLC ("Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt rules under Rule 4770 to implement the quoting and trading provisions of the Plan to Implement a Tick Size Pilot Program submitted to the Commission pursuant to Rule 608 of Regulation NMS[3] under the Act (the "Plan").[4] The proposed rule change is substantially similar to proposed rule changes recently approved or published by the Commission by New York Stock Exchange LLC to adopt NYSE Rules 67(a) and 67(c)–(e), which also implemented the quoting and trading provisions of the Plan.[5]

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 242.608.

[4] *See* Securities and Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (File No. 4–657) ("Tick Plan Approval Order"). *See also* Securities and Exchange Act Release No. 76382 (November 6, 2015) (File No. 4–657), 80 FR 70284 (File No. 4–657) (November 13, 2015), which extended the pilot period commencement date from May 6, 2015 to October 3, 2016.

[5] *See* Securities Exchange Act Release No. 76229 (October 22, 2015), 80 FR 66065 (October 28, 2015) (SR–NYSE–2015–46), as amended by Partial Amendments No. 1 and No. 2 to the Quoting & Trading Rules Proposal. *See* Securities Exchange Act Release No. 77703 (April 25, 2016), 81 FR 25725 (April 29, 2016) (SR–NYSE–2015–46).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to establish rules to require its members to comply with the requirements of the Plan, which is designed to study and assess the impact of increment conventions on the liquidity and trading of the common stocks of small capitalization companies. The Exchange proposes changes to its rules for a two-year pilot period that coincides with the pilot period for the Plan, which is currently scheduled as a two year pilot to begin on October 3, 2016.

Background

On August 25, 2014, NYSE Group, Inc., on behalf of Bats BZX Exchange, Inc. (f/k/a BATS Exchange, Inc.), Bats BYX Exchange, Inc. (f/k/a BATS Y-Exchange, Inc.), Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., the Exchange[sic], Financial Industry Regulatory Authority, Inc. ("FINRA"), NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, New York Stock Exchange LLC, the Exchange and NYSE Arca, Inc., and the NYSE MKT LLC, (collectively "Participants"), filed with the Commission, pursuant to Section 11A of the Act[6] and Rule 608 of Regulation NMS thereunder, the Plan to Implement a Tick Size Pilot Program.[7] The Participants filed the Plan to comply with an order issued by the Commission on June 24, 2014 (the "June 2014 Order").[8] The Plan[9] was published for

[6] 15 U.S.C. 78k–1.

[7] *See* Letter from Brendon J. Weiss, Vice President, Intercontinental Exchange, Inc., to Secretary, Commission, dated August 25, 2014.

[8] *See* Securities Exchange Act Release No. 72460 (June 24, 2014), 79 FR 36840 (June 30, 2014).

[9] Unless otherwise specified, capitalized terms used in this rule filing are based on the defined terms of the Plan.

comment in the **Federal Register** on November 7, 2014,[10] and approved by the Commission, as modified, on May 6, 2015.[11]

The Plan is designed to allow the Commission, market participants, and the public to study and assess the impact of increment conventions on the liquidity and trading of the common stocks of small capitalization companies. The Commission plans to use the Tick Size Pilot Program to assess whether wider tick sizes enhance the market quality of Pilot Securities for the benefit of issuers and investors. Each Participant is required to comply with, and to enforce compliance by its members, as applicable, with the provisions of the Plan.

On October 9, 2015, the Operating Committee approved the Exchange's proposed rules as model Participant rules that would require compliance by a Participant's members with the provisions of the Plan, as applicable, and would establish written policies and procedures reasonably designed to comply with applicable quoting and trading requirements specified in the Plan.[12] As described more fully below, the proposed rules would require members to comply with the Plan and provide for the widening of quoting and trading increments for Pilot Securities, consistent with the Plan.

The Plan will include stocks of companies with $3 billion or less in market capitalization, an average daily trading volume of one million shares or less, and a volume weighted average price of at least $2.00 for every trading day. The Plan will consist of a control group of approximately 1,400 Pilot Securities and three test groups with 400 Pilot Securities in each selected by a stratified sampling.[13] During the pilot, Pilot Securities in the control group will be quoted at the current tick size increment of $0.01 per share and will trade at the currently permitted increments. Pilot Securities in the first test group ("Test Group One") will be quoted in $0.05 minimum increments but will continue to trade at any price increment that is currently permitted.[14] Pilot Securities in the second test group ("Test Group Two") will be quoted in $0.05 minimum increments and will trade at $0.05 minimum increments subject to a midpoint exception, a retail investor exception, and a negotiated trade exception.[15] Pilot Securities in the third test group ("Test Group Three") will be subject to the same terms as Test Group Two and also will be subject to the "Trade-at" requirement to prevent price matching by a person not displaying at a price of a Trading Center's "Best Protected Bid" or "Best Protected Offer," unless an enumerated exception applies.[16] In addition to the exceptions provided under Test Group Two, an exception for Block Size orders and exceptions that closely resemble those under Rule 611 of Regulation NMS[17] will apply to the Trade-at requirement.

The Plan also contains requirements for the collection and transmission of data to the Commission and the public. A variety of data generated during the Plan will be released publicly on an aggregated basis to assist in analyzing the impact of wider tick sizes on smaller capitalization stocks.[18]

Proposed Rules 4770(a) and (c)

The Plan requires the Exchange to establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with applicable quoting and trading requirements specified in the Plan.[19] Accordingly, the Exchange is proposing new Rule 4770(a) to require its members to comply with the quoting and trading provisions of the Plan. The proposed Rules are also designed to ensure the Exchange's compliance with the Plan.

Proposed paragraph (a)(1) of new Rule 4770 would establish the following defined terms:

- "Plan" means the Tick Size Pilot Plan submitted to the Commission pursuant to Rule 608(a)(3) of Regulation NMS under the Act.
- "Pilot Test Groups" means the three test groups established under the Plan, consisting of 400 Pilot Securities each, which satisfy the respective criteria established by the Plan for each such test group.
- Trade-at Intermarket Sweep Order"[20] would mean a limit order for a Pilot Security that meets the following requirements:

(i) When routed to a Trading Center, the limit order is identified as a Trade-at Intermarket Sweep Order; and

(ii) Simultaneously with the routing of the limit order identified as a Trade-at Intermarket Sweep Order, one or more additional limit orders, as necessary, are routed to execute against the full size of any protected bid, in the case of a limit order to sell, or the full displayed size of any protected offer, in the case of a limit order to buy, for the Pilot Security with a price that is better than or equal to the limit price of the limit order identified as a Trade-at Intermarket Sweep Order. These additional routed orders also must be marked as Trade-at Intermarket Sweep Orders.

- Paragraph (a)(1)(E) would provide that all capitalized terms not otherwise defined in this rule shall have the meanings set forth in the Plan, Regulation NMS under the Act, or Exchange rules, as applicable.

Proposed Paragraph (a)(2) would state that the Exchange is a Participant in,

[10] *See* Securities and Exchange Act Release No. 73511 (November 3, 2014), 79 FR 66423 (File No. 4–657) (Tick Plan Filing).

[11] *See* Tick Plan Approval Order, *supra* note 4. *See also* Securities Exchange Act Release No. 77277 (March 3, 2016), 81 FR 12162 (March 8, 2016) (File No. 4–657), which amended the Plan to add National Stock Exchange, Inc. as a Participant.

[12] The Operating Committee is required under Section III(C)(2) of the Plan to "monitor the procedures established pursuant to the Plan and advise Participants with respect to any deficiencies, problems, or recommendations as the Operating Committee may deem appropriate." The Operating Committee is also required to "establish specifications and procedures for the implementation and operation of the Plan that are consistent with the provisions of the Plan."

[13] *See* Section V of the Plan for identification of Pilot Securities, including criteria for selection and grouping.

[14] *See* Section VI(B) of the Plan. Pilot Securities in Test Group One will be subject to a midpoint exception and a retail investor exception.

[15] *See* Section VI(C) of the Plan.

[16] *See* Section VI(D) of the Plan.

[17] 17 CFR 242.611.

[18] *See* Section VII of the Plan.

[19] The Exchange was also required by the Plan to develop appropriate policies and procedures that provide for data collection and reporting to the Commission of data described in Appendixes B and C of the Plan. *See* Securities Exchange Act Release No. 77456 (March 28, 2016), 81 FR 18925 (April 1, 2016) (SR–NASDAQ–2016–43).

[20] The Plan defines a Trade-at Intermarket Sweep Order ("ISO") as a limit order for a Pilot Security that, when routed to a Trading Center, is identified as an ISO, and simultaneous with the routing of the limit order identified as an ISO, one or more additional limit orders, as necessary, are routed to execute against the full displayed size of any protected bid (in the case of a limit order to sell) or the full displayed size of any protected offer (in the case of a limit order to buy) for the Pilot Security with a price that is equal to the limit price of the limit order identified as an ISO. These additional routed orders also must be marked as ISOs. *See* Plan, Section I(MM). Since the Plan allows (i) an order that is identified as an ISO to be executed at the price of a Protected Quotation (*see* Plan, Section VI(D)(8) and proposed Rule 4770(c)(3)(D)(iii)i.) and (ii) an order to execute at the price of a Protected Quotation that "is executed by a trading center that simultaneously routed Trade-at ISO to execute against the full displayed size of the Protected Quotation that was trade at" (*see* Plan, Section VI(D)(9) and proposed Rule 4770(c)(3)(D)(iii)j.)), the Exchange proposes to clarify the use of an ISO in connection with the Trade-at requirement by adopting, as part of proposed Rule 4770(a)(1), a comprehensive definition of "Trade-at ISO." As set forth in the Plan and as noted above, the definition of a Trade-at ISO used in the Plan does not distinguish ISOs that are compliant with Rule 611 or Regulation NMS from ISOs that are compliant with Trade-at. The Exchange therefore proposes the separate definition of Trade-at ISO contained in proposed Rule 4770(a). The Exchange believes that this proposed definition will further clarify to recipients of ISOs in Test Group Three securities whether the ISO satisfies the requirements of Rule 611 of Regulation NMS or Trade-at.

and subject to the applicable requirements of, the Plan; proposed Paragraph (a)(3) would require members to establish, maintain and enforce written policies and procedures that are reasonably designed to comply with the applicable requirements of the Plan, which would allow the Exchange to enforce compliance by its members with the provisions of the Plan, as required pursuant to Section II(B) of the Plan.

In addition, Paragraph (a)(4) would provide that Exchange systems would not display, quote or trade in violation of the applicable quoting and trading requirements for a Pilot Security specified in the Plan and this proposed rule, unless such quotation or transaction is specifically exempted under the Plan.[21]

The Exchange also proposes to add Rule 4770(a)(5) to provide for the treatment of Pilot Securities that drop below a $1.00 value during the Pilot Period.[22] The Exchange proposes that if the price of a Pilot Security drops below $1.00 during regular trading on any given business day, such Pilot Security would continue to be subject to the Plan and the requirements described below that necessitate members to comply with the specific quoting and trading obligations for each respective Pilot Test Group under the Plan, and would continue to trade in accordance with the proposed rules below as if the price of the Pilot Security had not dropped below $1.00. However, if the Closing Price of a Pilot Security on any given business day is below $1.00, such Pilot Security would be moved out of its respective Pilot Test Group into the control group (which consists of Pilot Securities not placed into a Pilot Test Group), and may then be quoted and traded at any price increment that is currently permitted by Exchange rules for the remainder of the Pilot Period. Notwithstanding anything contained herein to the contrary, the Exchange proposes that, at all times during the Pilot Period, Pilot Securities (whether in the control group or any Pilot Test Group) would continue to be subject to the data collection rules, which are enumerated in Rule 4770(b).

The Exchange proposes Rules 4770(c)(1)–(3), which would require members to comply with the specific quoting and trading obligations for each Pilot Test Group under the Plan. With regard to Pilot Securities in Test Group One, proposed Rule 4770(c)(1) would provide that no member may display, rank, or accept from any person any displayable or non-displayable bids or offers, orders, or indications of interest in increments other than $0.05. However, orders priced to trade at the midpoint of the National Best Bid and National Best Offer ("NBBO") or Best Protected Bid and Best Protected Offer ("PBBO") and orders entered in a Participant-operated retail liquidity program[23] may be ranked and accepted in increments of less than $0.05. Pilot Securities in Test Group One may continue to trade at any price increment that is currently permitted by Rule 4701(k).[24]

With regard to Pilot Securities in Test Group Two, proposed Rule 4770(c)(2)(A) would provide that such Pilot Securities would be subject to all of the same quoting requirements as described above for Pilot Securities in Test Group One, along with the applicable quoting exceptions. In addition, proposed Rule 4770(c)(2)(B) would provide that, absent one of the listed exceptions in proposed 4770(c)(2)(C) enumerated below, no member may execute orders in any Pilot Security in Test Group Two in price increments other than $0.05. The $0.05 trading increment would apply to all trades, including Brokered Cross Trades.

Paragraph (2)(C) would set forth further requirements for Pilot Securities in Test Group Two. Specifically, members trading Pilot Securities in Test Group Two would be allowed to trade in increments less than $0.05 under the following circumstances:

(i) Trading may occur at the midpoint between the NBBO or PBBO;

(ii) Retail Investor Orders may be provided with price improvement that is at least $0.005 better than the PBBO;

(iii) Negotiated Trades may trade in increments less than $0.05; and

(iv) Execution of a customer order to comply with Rule 5320A[25] following the execution of a proprietary trade by the member at an increment other than $0.05, where such proprietary trade was permissible pursuant to an exception under the Plan.[26]

Paragraph (3)(A)–(3)(C) would set forth the requirements for Pilot Securities in Test Group Three. Members quoting or trading such Pilot Securities would be subject to all of the same quoting and trading requirements as described above for Pilot Securities in Test Group Two, including the quoting and trading exceptions applicable to Pilot Securities in Test Group Two. In addition, proposed Paragraph (3)(D) would provide for an additional prohibition on Pilot Securities in Test Group Three referred to as the "Trade-

[21] The Exchange is still evaluating its internal policies and procedures to ensure compliance with the Plan, and plans to separately propose rules that would address violations of the Plan.

[22] New York Stock Exchange LLC, on behalf of the Participants, submitted a letter to Commission requesting exemption from certain provisions of the Plan related to quoting and trading. *See* letter from Elizabeth K. King, NYSE, to Brent J. Fields, Secretary, Commission, dated October 14, 2015 (the "October Exemption Request"). FINRA, also on behalf of the Plan Participants, submitted a separate letter to Commission requesting additional exemptions from certain provisions of the Plan related to quoting and trading. *See* letter from Marcia E. Asquith, Senior Vice President and Corporate Secretary, FINRA, to Robert W. Errett, Deputy Secretary, Commission, dated February 23, 2016 (the "February Exemption Request," and together with the October Exemption Request, the "Exemption Request Letters"). The Commission, pursuant to its authority under Rule 608(e) of Regulation NMS, granted New York Stock Exchange LLC a limited exemption from the requirement to comply with certain provisions of the Plan as specified in the Exemption Request Letters and noted herein. *See* letter from David Shillman, Associate Director, Division of Trading and Markets, Commission to Sherry Sandler, Associate General Counsel, New York Stock Exchange LLC, dated April 25, 2016 (the "Exemption Letter"). The Exchange is seeking the same exemptions as requested in the Exemption Request Letters, including without limitation, an exemption relating to proposed Rule 4770(a)(5).

[23] The Exchange notes that it does not currently operate a retail liquidity program, but has elected to include rule text taken from the plan concerning such programs and Retail Investor Orders under Rule 4770(c) to keep the rule text consistent with the Plan.

[24] Rule 4701(k) describes the minimum price variation for quoting and entry of orders in equity securities listed on the Exchange or a national securities exchange other than the Exchange.

[25] Rule 5320A is the Exchange's Prohibition Against Trading Ahead of Customer Orders rule and incorporates by reference FINRA Rule 5320, which states:

(a) Except as provided herein, a member that accepts and holds an order in an equity security from its own customer or a customer of another broker-dealer without immediately executing the order is prohibited from trading that security on the same side of the market for its own account at a price that would satisfy the customer order, unless it immediately thereafter executes the customer order up to the size and at the same or better price at which it traded for its own account.

(b) A member must have a written methodology in place governing the execution and priority of all pending orders that is consistent with the requirements of this Rule and Rule 5310. A member also must ensure that this methodology is consistently applied.

[26] The Exchange proposes to add this exemption to permit members to fill a customer order in a Pilot Security at a non-nickel increment to comply with Rule 5320A under limited circumstances. Specifically, the exception would allow the execution of a customer order following a proprietary trade by the member at an increment other than $0.05 in the same security, on the same side and at the same price as (or within the prescribed amount of) a customer order owed a fill pursuant to Rule 5320A, where the triggering proprietary trade was permissible pursuant to an exception under the Plan. The Commission granted New York Stock Exchange LLC an exemption from Rule 608(c) related to this provision. *See* Exemption Letter, *supra* note 22. The Exchange is seeking the same exemptions as requested in the Exemption Request Letters. The Exchange believes such an exception best facilitates the ability of members to continue to protect customer orders while retaining the flexibility to engage in proprietary trades that comply with an exception to the Plan.

at Prohibition." [27] Paragraph (3)(D)(ii) would provide that, absent one of the listed exceptions in proposed Rule 4770(c)(3)(D)(iii) enumerated below, no member may execute a sell order for a Pilot Security in Test Group Three at the price of a Protected Bid or execute a buy order for a Pilot Security in Test Group Three at the price of a Protected Offer.

Proposed Rule 4770(c)(3)(D)(iii) would allow members to execute a sell order for a Pilot Security in Test Group Three at the price of a Protected Bid or execute a buy order for a Pilot Security in Test Group Three at the price of a Protected Offer if any of the following circumstances exist:

a. The order is executed as agent or riskless principal by an independent trading unit, as defined under Rule 200(f) of Regulation SHO,[28] of a Trading Center within a member that has a displayed quotation as agent or riskless principal, via either a processor or an SRO Quotation Feed, at a price equal to the traded-at Protected Quotation, that was displayed before the order was received,[29] but only up to the full displayed size of that independent trading unit's previously displayed quote; [30]

b. The order is executed by an independent trading unit, as defined under Rule 200(f) of Regulation SHO, of a Trading Center within a member that has a displayed quotation for the account of that Trading Center on a principal (excluding riskless principal [31]) basis, via either a processor or an SRO Quotation Feed, at a price equal to the traded-at Protected Quotation, that was displayed before the order was received, but only up to the full displayed size of that independent unit's previously displayed quote; [32]

c. The order is of Block Size [33] at the time of origin and may not be:

A. An aggregation of non-block orders;

B. broken into orders smaller than Block Size prior to submitting the order to a Trading Center for execution; or

C. executed on multiple Trading Centers; [34]

d. The order is a Retail Investor Order executed with at least $0.005 price improvement;

e. The order is executed when the Trading Center displaying the Protected Quotation that was traded at was experiencing a failure, material delay, or malfunction of its systems or equipment;

f. The order is executed as part of a transaction that was not a "regular way" contract;

g. The order is executed as part of a single-priced opening, reopening, or closing transaction on the Exchange;

h. The order is executed when a Protected Bid was priced higher than a Protected Offer in the Pilot Security in Test Group Three;

i. The order is identified as a Trade-at Intermarket Sweep Order; [35]

j. The order is executed by a Trading Center that simultaneously routed Trade-at Intermarket Sweep Orders to execute against the full displayed size of the Protected Quotation that was traded at; [36]

k. The order is executed as part of a Negotiated Trade;

l. The order is executed when the Trading Center displaying the Protected Quotation that was traded at had displayed, within one second prior to execution of the transaction that constituted the Trade-at, a Best Protected Bid or Best Protected Offer, as applicable, for the Pilot Security in Test Group Three with a price that was inferior to the price of the Trade-at transaction;

m. The order is executed by a Trading Center which, at the time of order receipt, the Trading Center had guaranteed an execution at no worse than a specified price (a "stopped order"), where:

A. The stopped order was for the account of a customer;

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[27] Proposed 4770(c)(3)(D)(i) would define the "Trade-at Prohibition" to mean the prohibition against executions by a Trading Center of a sell order for a Pilot Security at the price of a Protected Bid or the execution of a buy order for a Pilot Security at the price of a Protected Offer during regular trading hours.

[28] The Exchange is proposing that, for proposed Rules 4770(c)(3)(D)(iii)a. and b., a Trading Center operated by a broker-dealer would mean an independent trading unit, as defined under Rule 200(f) of Regulation SHO, within such broker-dealer. *See* 17 CFR 242.200.

Independent trading unit aggregation is available if traders in an aggregation unit pursue only the particular trading objective(s) or strategy(s) of that aggregation unit and do not coordinate that strategy with any other aggregation unit. Therefore, a Trading Center cannot rely on quotations displayed by that broker dealer from a different independent trading unit. As an example, an agency desk of a broker-dealer cannot rely on the quotation of a proprietary desk in a separate independent trading unit at that same broker-dealer.

[29] The Exchange is proposing to adopt this limitation to ensure that a Trading Center does not display a quotation after the time of order receipt solely for the purpose of trading at the price of a protected quotation without routing to that protected quotation.

[30] This proposed exception to Trade-at would allow a Trading Center to execute an order at the Protected Quotation in the same capacity in which it has displayed a quotation at a price equal to the Protected Quotation and up to the displayed size of such displayed quotation.

[31] As described above, proposed Rule 4770(c)(3)(D)(iii)a. would establish the circumstances in which a Trading Center displaying an order as riskless principal would be permitted to Trade-at the Protected Quotation. Accordingly, the Exchange proposes that proposed Rule 4770(c)(3)(D)(iii)b. would exclude such circumstances.

[32] The display exceptions to Trade-at set forth in proposed Rules 4770(c)(3)(D)(iii)a. and b. would not permit a broker-dealer to trade on the basis of interest it is not responsible for displaying. In particular, a broker-dealer that matches orders in the over-the-counter market shall be deemed to have "executed" such orders as a Trading Center for purposes of proposed Rule 4770. Accordingly, if a broker-dealer is not displaying a quotation at a price equal to the Protected Quotation, it could not submit matched trades to an alternative trading center ("ATS") that was displaying on an agency basis the quotation of another ATS subscriber. However, a broker-dealer that is displaying, as principal, via either a processor or an SRO Quotation Feed, a buy order at the protected bid, could internalize a customer sell order up to its displayed size. The display exceptions would not permit a non-displayed Trading Center to submit matched trades to an ATS that was displaying on an agency basis the quotation of another ATS subscriber and confirmed that a broker-dealer would not be permitted to trade on the basis of interest that it is not responsible for displaying.

[33] "Block Size" is defined in the Plan as an order (1) of at least 5,000 shares or (2) for a quantity of stock having a market value of at least $100,000.

[34] Once a Block Size order or portion of such Block Size order is routed from one Trading Center to another Trading Center in compliance with Rule 611 of Regulation NMS, the Block Size order would not lose the Trade-at exemption provided under proposed Rule 4770(c)(3)(D)(iii)c. For example, if an exchange has a Protected Bid of 3,000 shares, with 2,000 shares in reserve, and receives a 5,000 share order to sell, the exchange would be able to execute the entire 5,000 share order without having to route to an away market at any other Protected Bid at the same price. If, however, that exchange only has 1,000 shares in reserve, the entire order would not be able to be executed on that exchange, and the exchange would only be able to execute 3,000 shares and route the rest to away markets at other Protected Bids at the same price, before executing the 1,000 shares in reserve.

[35] In connection with the definition of a Trade-at ISO proposed in Rule 4770(a)(1)(D), this exception refers to the ISO that is received by a Trading Center.

The Exchange proposed an exemption to the Trade-at Prohibition for Trade-at ISOs to clarify that an ISO that is received by a Trading Center (and which could form the basis of an execution at the price of a Protected Quotation pursuant to Section VI(D)(8) of the Plan), is identified as a Trade-at ISO. Depending on whether Rule 611 of Regulation NMS or the Trade-at requirement applies, an ISO may mean that the sender of the ISO has swept better-priced Protected Quotations, so that the recipient of that ISO may trade through the price of the Protected Quotation (Rule 611 of Regulation NMS), or it could mean that the sender of the ISO has swept Protected Quotations at the same price that it wishes to execute at (in addition to any better-priced quotations), so the recipient of that ISO may trade at the price of the Protected Quotation (Trade-at). Given that the meaning of an ISO may differ under Rule 611 of Regulation NMS and Trade-at, the Exchange proposed an exemption to the Trade-at Prohibition for Trade-at ISOs so that the recipient of an ISO in a Test Group Three security would know, upon receipt of that ISO, that the Trading Center that sent the ISO had already executed against the full size of displayed quotations at that price, *e.g.*, the recipient of that ISO could permissibly trade at the price of the Protected Quotation.

[36] In connection with the definition of a Trade-at ISO proposed in Rule 4770(a)(1)(D), this exception refers to the Trading Center that routed the ISO.

B. The customer agreed to the specified price on an order-by-order basis; and

C. The price of the Trade-at transaction was, for a stopped buy order, equal to or less than the National Best Bid in the Pilot Security in Test Group Three at the time of execution or, for a stopped sell order, equal to or greater than the National Best Offer in the Pilot Security in Test Group Three at the time of execution, as long as such order is priced at an acceptable increment; [37]

n. The order is for a fractional share of a Pilot Security in Test Group Three, provided that such fractional share order was not the result of breaking an order for one or more whole shares of a Pilot Security in Test Group Three into orders for fractional shares or was not otherwise effected to evade the requirements of the Trade-at Prohibition or any other provisions of the Plan; or

o. The order is to correct a bona fide error, which is recorded by the Trading Center in its error account.[38] A bona fide error is defined as:

A. The inaccurate conveyance or execution of any term of an order including, but not limited to, price, number of shares or other unit of trading; identification of the security; identification of the account for which securities are purchased or sold; lost or otherwise misplaced order tickets; short sales that were instead sold long or vice versa; or the execution of an order on the wrong side of a market;

B. The unauthorized or unintended purchase, sale, or allocation of securities, or the failure to follow specific client instructions;

C. The incorrect entry of data into relevant systems, including reliance on incorrect cash positions, withdrawals, or securities positions reflected in an account; or

D. A delay, outage, or failure of a communication system used to transmit market data prices or to facilitate the delivery or execution of an order.

Finally, Proposed Rule 4770(c)(3)(D)(iv) would prevent members from breaking an order into smaller orders or otherwise effecting or executing an order to evade the requirements of the Trade-at Prohibition or any other provisions of the Plan.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[39] in general, and furthers the objectives of Section 6(b)(5) of the Act,[40] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposed rule change is consistent with the Act because it ensures that the Exchange and its members would be in compliance with a Plan approved by the Commission pursuant to an order issued by the Commission in reliance on Section 11A of the Act.[41] Such approved Plan gives the Exchange authority to establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with applicable quoting and trading requirements specified in the Plan. The Exchange believes that the proposed rule change is consistent with the authority granted to it by the Plan to establish specifications and procedures for the implementation and operation of the Plan that are consistent with the provisions of the Plan. Likewise, the Exchange believes that the proposed rule change provides interpretations of the Plan that are consistent with the Act, in general, and furthers the objectives of the Act, in particular.

Furthermore, the Exchange is a Participant under the Plan and subject, itself, to the provisions of the Plan. The proposed rule change ensures that the Exchange's systems would not display or execute trading interests outside the requirements specified in such Plan. The proposal would also help allow market participants to continue to trade NMS Stocks within quoting and trading requirements that are in compliance with the Plan, with certainty on how certain orders and trading interests would be treated. This, in turn, will help encourage market participants to continue to provide liquidity in the marketplace.

[37] The stopped order exemption in Rule 611 of Regulation NMS applies where "[t]he price of the trade-through transaction was, for a stopped buy order, lower than the national best bid in the NMS stock at the time of execution or, for a stopped sell order, higher than the national best offer in the NMS stock at the time of execution" (*see* 17 CFR 242.611(b)(9)). The Trade-at stopped order exception applies where "the price of the Trade-at transaction was, for a stopped buy order, equal to the national best bid in the Pilot Security at the time of execution or, for a stopped sell order, equal to the national best offer in the Pilot Security at the time of execution" (*see* Plan, Section VI(D)(12)).

To illustrate the application of the stopped order exemption as it currently operates under Rule 611 of Regulation NMS and as it is currently proposed for Trade-at, assume the National Best Bid is $10.00 and another protected quote is at $9.95. Under Rule 611 of Regulation NMS, a stopped order to buy can be filled at $9.95 and the firm does not have to send an ISO to access the protected quote at $10.00 since the price of the stopped order must be lower than the National Best Bid. For the stopped order to also be executed at $9.95 and satisfy the Trade-at requirements, the Trade-at exception would have to be revised to allow an order to execute at the price of a protected quote which, in this case, could be $9.95.

Based on the fact that a stopped order would be treated differently under the Rule 611 of Regulation NMS exception than under the Trade-at exception in the Plan, the Exchange believes that it is appropriate to amend the Trade-at stopped order exception in the Plan to ensure that the application of this exception would produce a consistent result under both Regulation NMS and the Plan. Therefore, the Exchange proposes in this proposed Rule 4770(c)(3)(D)(iii)m, to allow a transaction to satisfy the Trade-at requirement if the stopped order price, for a stopped buy order, is equal to or less than the National Best Bid, and for a stopped sell order, is equal to or greater than the National Best Offer, as long as such order is priced at an acceptable increment. The Commission granted New York Stock Exchange LLC an exemption from Rule 608(c) related to this provision. *See* Exemption Letter, *supra* note 22. The Exchange is seeking the same exemptions as requested in the Exemption Request Letters.

[38] The exceptions to the Trade-at requirement set forth in the Plan and in the Exchange's proposed Rule 4770(c)(3)(D)(iii) are, in part, based on the exceptions to the trade-through requirement set forth in Rule 611 of Regulation NMS, including exceptions for an order that is executed as part of a transaction that was not a "regular way" contract, and an order that is executed as part of a single-priced opening, reopening, or closing transaction by the Trading Center (*see* 17 CFR 242.611(b)(2) and (b)(3)). Following the adoption of Rule 611 of Regulation NMS and its exceptions, the Commission issued exemptive relief that created exceptions from Rule 611 of Regulation NMS for certain error correction transactions. *See* Securities Exchange Act Release No. 55884 (June 8, 2007), 72 FR 32926 (June 14, 2007); Securities Exchange Act Release No. 55883 (June 8, 2007), 72 FR 32927 (June 14, 2007). The Exchange has determined that it is appropriate to incorporate this additional exception to the Trade-at Prohibition, as this exception is equally applicable in the Trade-at context.

Accordingly, the Exchange is proposing to exempt certain transactions to correct bona fide errors in the execution of customer orders from the Trade-at Prohibition, subject to the conditions set forth by the SEC's order exempting these transactions from Rule 611 of Regulation NMS. The Commission granted New York Stock Exchange LLC an exemption from Rule 608(c) related to this provision. *See* Exemption Letter, *supra* note 22. The Exchange is seeking the same exemptions as requested in the Exemption Request Letters.

As with the corresponding exception under Rule 611 of Regulation NMS, the bona fide error would have to be evidenced by objective facts and circumstances, the Trading Center would have to maintain documentation of such facts and circumstances and record the transaction in its error account. To avail itself of the exemption, the Trading Center would have to establish, maintain, and enforce written policies and procedures reasonably designed to address the occurrence of errors and, in the event of an error, the use and terms of a transaction to correct the error in compliance with this exemption. Finally, the Trading Center would have to regularly surveil to ascertain the effectiveness of its policies and procedures to address errors and transactions to correct errors and take prompt action to remedy deficiencies in such policies and procedures. *See* Securities Exchange Act Release No. 55884 (June 8, 2007), 72 FR 32926 (June 14, 2007).

[39] 15 U.S.C. 78f(b).

[40] 15 U.S.C. 78f(b)(5).

[41] 15 U.S.C. 78k–1.

Because the Plan supports further examination and analysis on the impact of tick sizes on the trading and liquidity of the securities of small capitalization companies, and the Commission believes that altering tick sizes could result in significant market-wide benefits and improvements to liquidity and capital formation, adopting rules that enforce compliance by its members with the provisions of the Plan would help promote liquidity in the marketplace and perfect the mechanism of a free and open market and national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes are being made to establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with the trading and quoting requirements specified in the Plan, of which other equities exchanges are also Participants. Other competing national securities exchanges are subject to the same trading and quoting requirements specified in the Plan. Therefore, the proposed changes would not impose any burden on competition, while providing certainty of treatment and execution of trading interests on the Exchange to market participants in NMS Stocks that are acting in compliance with the requirements specified in the Plan.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[42] and subparagraph (f)(6) of Rule 19b–4 thereunder.[43]

[42] 15 U.S.C. 78s(b)(3)(a)(iii).

[43] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2016–093 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2016–093. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2016–093, and should be submitted on or before August 3, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[44]

Brent J. Fields,

Secretary.

[FR Doc. 2016–16493 Filed 7–12–16; 8:45 am]

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[44] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78244; File No. SR–BX–2016–037)

Self-Regulatory Organizations; NASDAQ BX, Inc.; Notice of Filing of Proposed Rule Change To Adopt Limit Order Protection

July 7, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 24, 2016, NASDAQ BX, Inc. ("BX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend BX Rule 4757, entitled "Book Processing" to adopt a Limit Order Protection or "LOP" for members accessing the BX.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqbx.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt a new mechanism to protect against erroneous Limit Orders which are entered into BX. Specifically, this new feature addresses risks to market participants of human error in entering Limit Orders at unintended prices. LOP would prevent certain Limit Orders from executing or being placed on the Order Book at prices outside pre-set standard limits. The System would reject those Limit Orders, rather than executing them automatically. The proposed LOP feature is similar to a risk feature which exists today on BX [3] and is available for Options Participants.

The Exchange proposes to adopt a new feature, LOP for Limit Orders, which would reject Limit Orders back to the member when the order exceeds certain defined logic. The Exchange intends to apply LOP system wide. The Exchange reserves the ability to temporarily disable LOP for certain securities in the event of extraordinary market conditions in a certain symbol.[4] Specifically, the LOP feature would prevent certain Limit Orders at prices outside of pre-set standard limits ("LOP Limit") from being accepted by the System. LOP shall apply to all Quotes and Orders, including any modified Orders.[5] LOP would not apply to Market Orders, Market Maker Peg Orders [6] or Intermarket Sweep Orders (ISO).[7] A Market Maker Peg Order is a passive order type which will not otherwise remove liquidity from the Order Book. This order type was designed to assist Market Makers with meeting their quoting obligations. Market Makers have a diverse business model as compared with other market participants. Excluding the Market Maker Peg Order from the LOP will assist Market Makers in meeting their quoting obligations. The Exchange believes that because Market Makers have other risk protections in place to prevent them from quoting outside of their financial means, the risk level for erroneous trades is not the same as with other market participants. Market Makers have more sophisticated infrastructures than other market participants and are able to manage their risk, particularly with quoting, utilizing other tools which may not be available to other market participants. An ISO is immediately executable within BX against orders against which they are marketable. The ISO designation on an order presumes that the market participant has satisfied their obligation to all protected quotes up to the limit of the ISO.

LOP would be operational each trading day. LOP would not be operational during trading halts and pauses. Also, LOP would not apply in the event that there is no established LOP Reference Price.[8] The LOP Reference Price shall be the current National Best Bid or Best Offer (NBBO), the bid for sell orders and the offer for buy orders.

The Exchange proposes to not accept incoming Limit Orders that exceed the LOP Reference Threshold. Limit Orders will not be accepted if the price of the Limit Order is greater than the LOP Reference Threshold for a buy Limit Order. Limit Orders will not be accepted if the price of the Limit Order is less than the LOP Reference Threshold for a sell Limit Order. The LOP Reference Threshold for buy orders will be the LOP Reference Price (offer) plus the applicable percentage specified [sic] in the LOP Limit. The LOP Reference Threshold for sell orders will be the LOP Reference Price (bid) minus the applicable percentage specified [sic] in the LOP Limit. The LOP Limit shall be the greater of 10% of the LOP Reference Price or $0.50 for all securities across all trading sessions. The LOP Reference Price shall be the current National Best Bid or Best Offer (NBBO), the bid for sell orders and the offer for buy orders.

The Exchange also notes that LOP will be applicable on all protocols.[9] The LOP feature will be mandatory for all BX members. The Exchange proposes to implement this rule within ninety (90) days of the approval of this proposed rule change. The Exchange will issue an Equities Trader Alert in advance to inform market participants of such implementation date.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [10] in general, and furthers the objectives of Section 6(b)(5) of the Act [11] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by mitigating risks to market participants of human error in entering Limit Orders at clearly unintended prices. The proposals are appropriate and reasonable, because they offer protections for Limit Orders which should encourage price continuity and, in turn, protect investors and the public interest by reducing executions occurring at dislocated prices.

The proposed LOP feature would assist with the maintenance of fair and orderly markets by mitigating the risks associated with errors resulting in executions at prices that are away from the Best Bid or Offer and potentially erroneous. Further the proposal protects investors from potentially receiving

[3] *See* BX Rules at Chapter VI, Section 6(c) and Section 18.

[4] For example, LOP may cause a greater number of orders to be rejected in a very volatile market. In the event that the Exchange were to disable LOP in a particular symbol temporarily, the Exchange would immediately notify market participants by sending an alert via an Equities Trader Alert. The Exchange would enable LOP in that symbol as soon as is reasonably practicable and send an updated alert notifying participants that LOP was enabled.

[5] If an Order is modified, LOP will review the order anew and, if LOP is triggered, such modification will not take effect and the original order will be rejected.

[6] A "Market Maker Peg Order" is an Order Type designed to allow a Market Maker to maintain a continuous two-sided quotation at a displayed price that is compliant with the quotation requirements for Market Makers set forth in Rule 4613(a)(2). The displayed price of the Market Maker Peg Order is set with reference to a "Reference Price" in order to keep the displayed price of the Market Maker Peg Order within a bounded price range. A Market Maker Peg Order may be entered through RASH or FIX only. A Market Maker Peg Order must be entered with a limit price beyond which the Order may not be priced. The Reference Price for a Market Maker Peg Order to buy (sell) is the then-current National Best Bid (National Best Offer), or if no such National Best Bid or National Best Offer, the most recent reported last-sale eligible trade from the responsible single plan processor for that day, or if none, the previous closing price of the security as adjusted to reflect any corporate actions (*e.g.*, dividends or stock splits) in the security. *See* BX 4702(b)(7).

[7] An Intermarket Sweep or ISO Order, which is an Order that is immediately executable within BX against Orders against which they are marketable, is not subject to LOP. *See* BX Rule 6951(g).

[8] For example, if there is a one-sided quote or if the LOP Reference Price is less than the greater of 10% or $0.50.

[9] BX maintains several communications protocols for members to use in entering Orders and sending other messages to BX, such as: OUCH, RASH, FLITE and FIX.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

executions away from the prevailing prices at any given time. The Exchange proposes LOP to avoid a series of improperly priced aggressive orders transacting in the Order Book. The LOP Limit is appropriate because it seeks to capture improperly priced Limit Orders and reject them to reduce the risk of, and to potentially prevent, the automatic execution of Orders at prices that may be considered clearly erroneous. The System will only execute Limit Orders priced within the LOP Limit. The proposed limit of greater than 10% or $0.50 is a reasonable measure to ensure prices remain within the reasonable limits. This protection will bolster the normal resilience and market behavior that persistently produces robust reference prices. This feature should create a level of protection that prevents the Limit Orders from entering the Order Book outside of an acceptable range for the Limit Order to execute.

The LOP will reduce the negative impacts of sudden, unanticipated volatility, and serve to preserve an orderly market in a transparent and uniform manner, increase overall market confidence, and promote fair and orderly markets and the protection of investors. This feature is not optional and is applicable to all members submitting Limit Orders.

4. Self-Regulatory Organization's Statement on Burden on Competition [sic]

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The LOP feature will provide market participants with additional price protection from anomalous executions. This feature is not optional and is applicable to all members submitting Limit Orders. Thus, the Exchange does not believe the proposal creates any significant impact on competition. This type of risk protection is in place today for BX Options Participants.[12] Offering this protection to the BX Market Center will not impose any undue burden on intra-market competition, rather, it would permit equities and options members to be protected in a similar manner from erroneous executions. [sic]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The LOP feature will provide market participants with additional price protection from anomalous executions. This feature is not optional and is applicable to all members submitting Limit Orders. Thus, the Exchange does not believe the proposal creates any significant impact on competition. This type of risk protection is in place today for BX Options Participants.[13] Offering this protection to the BX Market Center will not impose any undue burden on intra-market competition, rather, it would permit equities and options members to be protected in a similar manner from erroneous executions.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BX–2016–037 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2016–037. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2016–037 and should be submitted on or before August 3, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Brent J. Fields,

Secretary.

[FR Doc. 2016–16485 Filed 7–12–16; 8:45 am]

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[12] *See* BX Rules at Chapter VI, Section 6(c) and Section 18.

[13] *See* BX Rules at Chapter VI, Section 6(c) and Section 18.

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78238; File No. SR–NYSEMKT–2016–13]

Self-Regulatory Organizations; NYSE MKT LLC; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 1, To Amend Rule 955NY(c) by Revising the Clearing Member Requirement for Entering an Order Into the Electronic Order Capture System

July 7, 2016.

I. Introduction

On March 22, 2016, NYSE MKT LLC (the "Exchange" or "NYSE MKT") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Rule 955NY(c) to change the timing for recording the name of the Clearing Member[3] in the Electronic Order Capture system ("EOC"). On March 29, 2016,[4] the Exchange filed Amendment No. 1 to the proposed rule change. The Commission published the proposed rule change, as modified by Amendment No. 1, for comment in the **Federal Register** on April 11, 2016.[5] The Commission received no comments on the proposed rule change. On May 25, 2016 the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change to July 10, 2016.[6] The Commission did not receive any comments on the proposed rule change. This order institutes proceedings under section 19(b)(2)(B) of the Act[7] to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1 thereto.

II. Description of the Proposal, as Modified by Amendment No. 1

The Exchange proposes to amend Rule 955NY(c) by revising the timing for an ATP holder to record the name of the Clearing Member in the EOC.[8] In 2000, the Commission issued an order, which required the Exchange, in coordination with other exchanges, to "design and implement a consolidated options audit trail system ('COATS')," that would "enable the options exchanges to reconstruct markets promptly, effectively surveil them and enforce order handling, firm quote, trade reporting and other rules."[9] The Commission Order requires the Exchange to incorporate into the audit trail all non-electronic orders "such that the audit trail provides an accurate, time-sequenced record of electronic and other orders, quotations and transactions on such respondent exchange, beginning with the receipt of an order by such respondent exchange and further documenting the life of the order through the process of execution, partial execution, or cancellation of that order, which audit trail shall be readily retrievable in the common computer format."[10] To comply with the Commission Order, the Exchange developed the EOC system for ATP holders.[11]

The EOC is the Exchange's floor-based electronic audit trail and order tracking system that provides an accurate time-sequenced record of all orders and transactions represented on the Exchange's trading floor.[12] Rule 955NY(c) sets forth the EOC entry requirements and requires every ATP holder that receives an order for execution on the Exchange to "immediately, prior to representation in the trading crowd, record the details of the order (including any modification of the terms of the order or cancellation of the order) into the EOC, unless such order has been entered into the Exchange's other electronic order processing facilities."[13] The pre-trade EOC requirements under current Rule 955NY(c)(1) include "the name of the clearing ATP Holder."[14] Rule 955NY(c)(1) further states that "[t]he remaining elements prescribed in Rule 956NY and any additional information with respect to the order shall be recorded as the events occur and/or during trade reporting procedures which may occur after the representation and execution of the order."[15]

The Exchange proposes to amend Rule 955NY(c)(1) to allow an ATP Holder to record the name of the Clearing Member in the EOC "as the events occur and/or during trade reporting procedures" rather than prior to representation of the order in the trading crowd.[16] The Exchange states that because the identity of the firm through which each trade will clear is not always initially provided when an order is presented, Floor Brokers waiting to receive this information and enter it into the EOC are delayed in representing and executing an order.[17] The Exchange represents that the proposal would amend only the timing for the recording of the Clearing Member in the EOC while still maintaining the requirement to record the Clearing Member in the EOC for audit trail purposes.[18] According to the Exchange, Floor Brokers would continue to be required to maintain proper order records, as part of each trade record, including the identity of the clearing ATP Holder, and would continue to be required to give up the responsible Clearing Member on each trade as part of each trade record.[19]

III. Proceedings To Determine Whether To Approve or Disapprove SR–NYSEMKT–2016–13 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to section

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Rule 900.2NY defines "Clearing Member" as an Exchange ATP Holder which has been admitted to membership in the Options Clearing Corporation pursuant to the provisions of the Rules of the Options Clearing Corporation.

[4] The Commission notes that the amendment date of March 30, 2016 in the SR–NYSEMKT–2016–13 Notice is incorrect and the proper date is March 29, 2016.

[5] *See* Securities Exchange Act Release No. 34–77518 (April 5, 2016), 81 FR 21415 ("Notice"). Amendment No. 1 was included in the Notice and provided the clarification that the CMTA Information and the name of the clearing ATP Holder would be entered into the EOC "as the events occur and/or during trade reporting procedures which may occur after the representation and execution of the order."

[6] *See* Securities Exchange Act Release No. 34–77910 (May 25, 2016), 81 FR 35098 (June 1, 2016).

[7] 15 U.S.C. 78s(b)(2)(B).

[8] *See* Notice, *supra* note 5, 81 FR at 21415.

[9] *See* Section IV.B.e.(v) of the Commission's Order Instituting Public Administrative Proceedings Pursuant to sections 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions ("Commission Order"), Securities Exchange Act Release No. 43268 (September 11, 2000) and Administrative Proceeding File No. 3–10282.

[10] *See id.*

[11] *See* Notice, *supra* note 5, 81 FR at 21415.

[12] *See id.; see also* Rule 955NY(c).

[13] *See* Rule 955NY(c).

[14] *See* Rule 955NY(c)(1)(vii).

[15] *See* Rule 955NY(c)(1); *see also* Rule 956NY(a) (Record of Orders) (requiring that ATP Holders maintain a record of each order that includes that the following data elements: (1) CMTA Information and the name of the clearing ATP Holder; (2) options symbol, expiration month, exercise price and type of options; (3) side of the market and order type; (4) quantity of options; (5) limit or stop price or special conditions; (6) opening or closing transaction; (7) time in force; (8) account origin code; and (9) whether the order was solicited or unsolicited).

[16] *See* Notice, *supra* note 5, 81 FR at 21415–16.

[17] *See id.* at 21416.

[18] *See id.*

[19] *See* Notice, *supra* note 5, 81 FR at 21416; *see also* Rule 956NY(a).

19(b)(2)(B) of the Act[20] to determine whether the proposed rule change should be approved or disapproved. Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change, as discussed below. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described in greater detail below, the Commission seeks and encourages interested persons to provide additional comment on the proposed rule change.

Pursuant to section 19(b)(2)(B) of the Act, the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings because the proposal raises important issues that warrant further public comment and Commission consideration. Specifically, the Commission is instituting proceedings to allow for additional analysis of, and input from commenters with respect to, the proposed rule change's consistency with section 6(b)(5) of the Act,[21] which requires that the rules of a national securities exchange be designed, among other things, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

Under the Exchange's current rules, a floor broker must record the name of the Clearing Member in the EOC prior to representing an order on the floor. As discussed above,[22] the Exchange developed the EOC and created the pre-trade Clearing Member requirement in response to the Commission Order. The Exchange justifies the proposed elimination of the pre-trade clearing requirement by stating that "Floor Brokers have told the Exchange that the identity of the firm through which each trade will clear is not always initially provided when an order is presented and that waiting to receive this information and enter it into EOC can delay the representation and execution of an order. In today's trading environment of rapidly moving markets and the need to execute an order and hedge a trade in real or near real time, even a slight delay can prove to be detrimental to the handling of an order."[23] The Exchange further states that the "proposed change to eliminate the Give Up Requirement prior to execution of each trade would not impair the Exchange's ability to comply with the [Commission] Order. Specifically, the EOC would still provide an accurate, time-sequenced record beginning with the receipt of an order and document the life of the order through the process of execution, partial execution, or cancellation. Entry of information pursuant to the Give Up Requirement would occur after the order had been represented and executed in the Trading Crowd. Thus, only the timing of the disclosure of such information would be affected by this proposal."[24]

The Exchange, however, does not explain why the identity of the Clearing Member may not be provided when an order is presented to a Floor Broker, how frequently this occurs, or why it is burdensome to identify the Clearing Member in advance. As a result, the Exchange does not appear to offer a credible justification for proposing to incur the risk of delaying the recording of this important information into the EOC. The Commission accordingly believes the proposal, as modified by Amendment No. 1, raises questions as to whether it consistent with the requirements of section 6(b)(5) of the Act, including whether the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data and arguments with respect to the concerns identified above, as well as any other concerns they may have with the proposed rule change. In particular, the Commission invites the written views of interested persons concerning whether the proposal, as modified by Amendment No. 1, is consistent with sections 6(b)(5)[25] or any other provision of the Act, or the rules and regulations thereunder. Although there does not appear to be any issue relevant to approval or disapproval which would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4 under the Act,[26] any request for an opportunity to make an oral presentation.[27] Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or disapproved by August 3, 2016. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by August 17, 2016. In light of the concerns raised by the proposed rule change, as discussed above, the Commission invites additional comment on the proposed rule change as the Commission continues its analysis of the proposed rule change's consistency with sections 6(b)(5) and 6(b)(8),[28] or any other provision of the Act, or the rules and regulations thereunder. The Commission asks that commenters address the sufficiency and merit of the Exchange's statements in support of the proposed rule change, in addition to any other comments they may wish to submit about the proposed rule change.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File No. SR–NYSEMKT–2016–13 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–NYSEMKT–2016–13. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the

[20] 15 U.S.C. 78s(b)(2)(B). Section 19(b)(2)(B) of the Act also provides that proceedings to determine whether to disapprove a proposed rule change must be concluded within 180 days of the date of publication of notice of the filing of the proposed rule change. *See id.* The time for conclusion of the proceedings may be extended for up to 60 days if the Commission finds good cause for such extension and publishes its reasons for so finding. *See id.*

[21] 15 U.S.C. 78f(b)(5).

[22] *See supra* note 9.

[23] *See* Notice, *supra* note 5, 81 FR at 21416.

[24] *See id.*

[25] 15 U.S.C. 78f(b)(5).

[26] 17 CFR 240.19b–4.

[27] Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Public Law 94–29 (June 4, 1975), grants to the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[28] 15 U.S.C. 78f(b)(5), (b)(8).

submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NYSEMKT–2016–13, and should be submitted by August 3, 2016. Rebuttal comments should be submitted by August 17, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

Brent J. Fields,

Secretary.

[FR Doc. 2016–16479 Filed 7–12–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78241; File No. SR–NYSEMKT–2016–65]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Commentary .07 to Rule 904 To Extend the Pilot Program That Eliminated the Position Limits for Options on SPDR S&P 500 ETF

July 7, 2016.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act"),[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on June 29, 2016, NYSE MKT LLC (the "Exchange" or "NYSE MKT") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend Commentary .07 to Rule 904 to extend the pilot program that eliminated the position limits for options on SPDR S&P 500 ETF ("SPY") ("SPY Pilot Program"). The proposed rule change is available on the Exchange's Web site at *www.nyse.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Commentary .07 to Rule 904 to extend the time period of the SPY Pilot Program,[4] which is currently scheduled to expire on July 12, 2016, through July 12, 2017.

This filing does not propose any substantive changes to the SPY Pilot Program. In proposing to extend the SPY Pilot Program, the Exchange reaffirms its consideration of several factors that supported the original proposal of the SPY Pilot Program, including (1) the availability of economically equivalent products and their respective position limits, (2) the liquidity of the option and the underlying security, (3) the market capitalization of the underlying security and the related index, (4) the reporting of large positions and requirements surrounding margin, and (5) the potential for market on close volatility.

In the July 2015 Extension, the Exchange stated that if it were to propose an extension, permanent approval or termination of the program, the Exchange would submit, along with any filing proposing such amendments to the program, a report providing an analysis of the SPY Pilot Program covering the period since the previous extension (the "Pilot Report"). Accordingly, the Exchange is submitting a Pilot Report detailing the Exchange's experience with the SPY Pilot Program for the period covering thirteen (13) months from May 2015 to May 2016. The Pilot Report is attached as Exhibit 3 to this filing. The Exchange notes that it is unaware of any problems created by the SPY Pilot Program and does not foresee any as a result of the proposed extension. In extending the SPY Pilot Program, the Exchange states that if it were to propose another extension, permanent approval or termination of the program, the Exchange would submit another Pilot Report covering the period since the previous extension, which would be submitted at least 30 days before the end of the proposed extension. If the SPY Pilot Program is not extended or adopted on a permanent basis by July 12, 2017, the position limits for SPY would revert to limits in effect at the commencement of the pilot program. The proposed extension will allow the Exchange and the Commission additional time to further evaluate the SPY Pilot Program and its effect on the market.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[5] in general, and furthers the objectives of Section 6(b)(5) of the Act[6] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that extending the SPY Pilot Program promotes just and equitable principles of trade by permitting market participants, including market makers, institutional investors and retail investors, to establish greater positions

[29] 17 CFR 200.30–3(a)(57).

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 67672 (August 15, 2012), 77 FR 50750 (August 22, 2012). The SPY Pilot Program was subsequently extended. *See* Securities Exchange Release Nos. 70734 (October 22, 2013), 78 FR 64255 (October 28, 2013); 73847 (December 16, 2014), 79 FR 76426 (December 22, 2014); and 75416 (July 9, 2015), 80 FR 41521 (July 15, 2016) (the "July 2015 Extension").

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

when pursuing their investment goals and needs.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any aspect of competition, whether between the Exchange and its competitors, or among market participants. Instead, the proposed rule change is designed to allow the SPY Pilot Program to continue uninterrupted. Additionally, the Exchange expects all other SROs that currently have rules regarding the SPY Pilot Program to also extend the pilot program for an additional year.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[7]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[8] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[9] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange believes that waiver of the operative delay is consistent with the protection of investors and the public interest because it will allow the SPY Pilot Program to continue without interruption. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[10]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEMKT–2016–65 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2016–65. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2016–65, and should be submitted on or before August 3, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Brent J. Fields,

Secretary.

[FR Doc. 2016–16482 Filed 7–12–16; 8:45 am]

BILLING CODE 8011–01–P

[7] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 240.19b–4(f)(6)(iii).

[10] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78248; File No. SR–CFE–2016–003]

Self-Regulatory Organizations; CBOE Futures Exchange, LLC; Notice of Proposed Rule Change Regarding Account and Order Ticket Information

July 7, 2016.

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on June 10, 2016 CBOE Futures Exchange, LLC ("CFE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change described in Items I, II, and III below, which Items have been prepared by CFE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. CFE also has filed this proposed rule change with the Commodity Futures Trading Commission ("CFTC"). CFE filed a written certification with the CFTC under Section 5c(c) of the Commodity Exchange Act ("CEA")[2] on June 23, 2016.

[1] 15 U.S.C. 78s(b)(7).

[2] 7 U.S.C. 7a–2(c).

I. Self-Regulatory Organization's Description of the Proposed Rule Change

The Exchange proposes to amend its rules related to account and order ticket information. The scope of this filing is limited solely to the application of the rule amendments to security futures that may be traded on CFE. The text of the proposed rule change is attached as Exhibit 4 to the filing but is not attached to the publication of this notice.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CFE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CFE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed CFE rule amendments included as part of this rule change is to amend CFE Rules 403 (Order Entry), 414 (Exchange of Contract for Related Position) ("ECRP"), and 415 (Block Trading) to clarify information that must be included as part of an order. The rule amendments included as part of this rule change are to apply to all products traded on CFE, including both non-security futures and security futures.

CFE Rule 403(a) currently provides that Trading Privilege Holders ("TPHs") are required to include certain information when entering an order into CFE's trading system. Pursuant to CFE Rule 403(a), each order currently must contain the following information: (i) Whether the order is a buy or sell order; (ii) order type; (iii) commodity; (iv) contract expiration; (v) price; (vi) quantity; (vii) account type; (viii) account designation (the number assigned by a TPH to each of its accounts); (ix) in the case of orders for options, strike price, type of option (put or call) and expiration month; and (x) such additional information as may be prescribed from time to time by the Exchange.

CFE Rule 414(f) currently provides that TPHs must identify and mark an ECRP order as an ECRP.

CFE Rule 415(e) currently provides that TPHs are required to include specified information on the order ticket for a Block Trade. Pursuant to CFE Rule 415(e), each TPH that is a party to a Block Trade currently must record the following information on the order ticket: The contract (including the expiration) to which the Block Trade relates; the number of contracts traded; the price of execution or premium; the time of execution (*i.e.*, the time the parties agreed to the Block Trade); the identity of the counterparty; that the transaction is a Block Trade; and, if applicable, the account number of the customer for which the Block Trade was executed, the underlying commodity, whether the transaction involved a put or a call and the strike price.

The proposed amendments provide additional detail regarding certain order information that must be provided under these Rules in the following manner:

First, the proposed amendments specify that, under CFE Rule 403(a), the account designation that must be included in any order submitted to CFE's trading system is the account number of the account of the party for which the order was placed (except that a different account designation may be included in the case of a bunched order or in the case of an order for which there will be a post-trade allocation of the resulting trade(s) to a different clearing member).

A bunched order is an order that is entered on behalf of multiple customer accounts and then allocated to the individual customer accounts in accordance with applicable regulatory requirements.[3] Because bunched orders are on behalf of multiple customer accounts, individual customer account numbers are not required to be included with bunched orders and instead the proposed amendments to Rule 403(a) reference the requirement under CFE Rule 406(e) that a designation specific to the allocation group and account controller be included in the order rather the individual account numbers. Additionally, when a TPH submits an order on behalf of a customer for which there is going to be a post-trade allocation of the resulting trade(s) to a different clearing member, the TPH may not know the account number of the customer at that clearing member. Accordingly, the account designation that the TPH is required to provide in those situations is not required to be the account number of the account of the party for which the order was placed and could be a suspense account number.

Second, the proposed amendments specify that, under CFE Rule 414(f), each TPH that acts as agent for an ECRP transaction must include on the order ticket for the ECRP specified information provided for in this proposed rule change. Specifically, CFE Rule 414(f) is proposed to be revised to make clear that each TPH that acts as agent for an ECRP must record the following details with respect to the contract leg of the ECRP on its order ticket: The contract (including the expiration); the number of contracts traded; the price of execution or premium; the time of execution (*i.e.*, the time the parties agreed to the ECRP); the identity of the counterparty; that the transaction is an ECRP; the account number of the customer for which the ECRP was executed; and if applicable, the underlying commodity, whether the transactions involved a put or a call and the strike price.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Sections 6(b)(5)[5] and 6(b)(7)[6] in particular in that it is designed:

- To prevent fraudulent and manipulative acts and practices,
- to promote just and equitable principles of trade,
- to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and
- to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change would strengthen its ability to carry out its responsibilities as a self-regulatory organization by providing further clarity and guidance regarding the type of information that must be included as part of an order. First, the proposed rule change will provide market participants with greater clarity regarding the information that

[3] CFE Rule 406(e) provides that, subject to compliance with CFE Rule 605 (Sales Practice Rules) and the sales practice rules referred to therein, each TPH may enter, or permit its Related Parties to enter (as applicable), a bunched order for more than one discretionary customer account into CFE's trading system by using a designation specific to the allocation group and account controller rather than including each of the individual account numbers in the order, provided that the TPH has filed or is filing an allocation scheme for the order in accordance with CFTC regulations.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78f(b)(7).

must be provided when an order, ECRP transaction, or Block Trade is submitted to CFE's system. Second, the proposed rule change would contribute to enhancing the effectiveness of CFE's audit trail program by helping to assure that required information is included as part of each order.

B. Self-Regulatory Organization's Statement on Burden on Competition

CFE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, in that the rule change will enhance CFE's ability to carry out its responsibilities as a self-regulatory organization. The Exchange believes that the proposed rule change is equitable and not unfairly discriminatory because the amendments regarding account and order ticket information apply equally to all market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change will become effective on June 23, 2016. At any time within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of Section 19(b)(1) of the Act.[7]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–CFE–2016–003 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CFE–2016–003. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CFE–2016–003, and should be submitted on or before August 3, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Brent J. Fields,

Secretary.

[FR Doc. 2016–16490 Filed 7–12–16; 8:45 am]

BILLING CODE 8011–01–P

[7] 15 U.S.C. 78s(b)(1).

[8] 17 CFR 200.30–3(a)(73).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78237; File No. SR–FINRA–2016–021]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Clarify the Application of FINRA Rule 2210 ("Communications With the Public") to Debt Research Reports

July 7, 2016.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 24, 2016, Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a "non-controversial" rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to clarify the application of FINRA Rule 2210 ("Communications with the Public") to debt research reports as the result of approval of a new FINRA debt research conflict of interest rule.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org*, at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

FINRA is proposing to make several conforming changes to FINRA Rule 2210 to expressly address its application to debt research reports in light of the Commission's approval of a dedicated debt research conflict of interest rule. On July 16, 2015, the SEC approved a proposed rule change to adopt FINRA Rule 2242 to address conflicts of interest relating to the publication and distribution of debt research reports.[4] Rule 2242 will be implemented on July 16, 2016.[5] Until that rule becomes effective, FINRA's research conflict of interest rules apply only to equity research as set forth in FINRA Rule 2241 ("Research Analysts and Research Reports").

First, Rule 2210(b)(1)(A) requires an appropriately qualified registered principal to approve each "retail communication" before the earlier of its use or filing with FINRA's Advertising Regulation Department. Both a debt and equity research report constitutes a "retail communication," unless it is distributed or made available only to "institutional investors" as defined in Rule 2210(a)(4), in which case it would be considered an "institutional communication" not subject to the pre-use approval requirement.

Rule 2210(b)(1)(B) states that the pre-use approval requirement may be satisfied by a Supervisory Analyst approved pursuant to NYSE Rule 344 with respect to: (i) Research reports on debt and equity securities; (ii) retail communications as described in Rule 2241(a)(11)(A); and (iii) other research that does not meet the definition of "research report" under Rule 2241(a)(11), provided that the Supervisory Analyst has technical expertise in the particular product areas. For dual FINRA and New York Stock Exchange members, this provision therefore broadly allows a Series 16 qualified Supervisory Analyst to satisfy the pre-use approval requirement with respect to any research-related communication, including those expressly excepted by the definition of "research report" under Rule 2241(a)(11)(A) or not otherwise captured by that definition of "research report" under the equity research rule.

The proposed rule change would clarify and streamline the scope of approval permitted by Supervisory Analysts to specifically reference the definitions of "research report" and "debt research report" in Rules 2241(a)(11) and 2242(a)(3), respectively. It also would add a specific reference to the exceptions under Rule 2242(a)(3)(A), thereby making express the references to debt research-related retail communications consistent with the references to equity research-related retail communications. The proposal maintains the ability for a Supervisory Analyst to approve other research communications—*e.g.*, research on options—provided that the Supervisory Analyst has technical expertise in the product area and any other required registrations for such product.

Second, Rule 2210(b)(1)(D)(i) excepts from the pre-use approval requirement any retail communication that is excepted from the definition of "research report" under Rule 2241(a)(11)(A), unless the communication makes any financial or investment recommendation. Those communications still must be supervised and reviewed in the same manner as correspondence pursuant to FINRA's supervision rules.[6] FINRA adopted this exception due to concerns that the pre-use approval requirements for these types of research communications in some circumstances may have inhibited the flow of information to traders and other investors who base their investment decisions on timely market analysis.[7] The proposed change would make this exception from the pre-use approval requirements consistent for debt and equity research communications.

Third, Rule 2210(d)(7) requires specific applicable disclosures in retail communications that include a recommendation of securities; however, the requirements do not apply to communications that meet the definition of an equity research report under Rule 2241(a), as long as the research report includes all the required disclosures under that rule. Similarly, Rule 2210(f)(2) requires specific applicable disclosures where an associated person recommends a security in a public appearance, but Rule 2210(f)(5) excepts from those disclosure requirements public appearances by an equity "research analyst" as defined in Rule 2241(a)(8), provided the research analyst makes all of the disclosures required under that rule. The basis for these exceptions is that the equity research rule has more extensive required disclosures in both research reports and public appearances than Rule 2210(d)(7) and (f)(2), respectively. New Rule 2242 requires similarly extensive corresponding disclosures in debt research reports and public appearances by debt research analysts. As such, FINRA believes it appropriate to similarly except debt research reports from the disclosure requirements of Rule 2210(d)(7) and except public appearances by debt research analysts from the disclosure requirements of Rule 2210(f)(2) for consistency purposes.

Finally, the proposed rule change would also make technical changes to FINRA Rules 2210(d)(7) and (f)(5) to make the rule language more readable.[8]

FINRA has filed the proposed rule change for immediate effectiveness and has requested that the SEC waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing. The implementation date for the proposed rule change will be July 16, 2016, to coincide with the effective date of FINRA Rule 2242.[9]

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act,[10] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes the proposed rule change will promote

[4] *See* Securities Exchange Act Release No. 75472 (July 16, 2015), 80 FR 43528 (July 22, 2015) (Order Approving File No. SR–FINRA–2014–048). *See also Regulatory Notice* 15–31 (August 2015).

[5] *See* Securities Exchange Act Release No. 77158 (February 17, 2016), 81 FR 9065 (February 23, 2016) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2016–008), *see also* Securities Exchange Act Release No. 77726 (April 27, 2016), 81 FR 26593 (May 3, 2016) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2016–013).

[6] *See* FINRA Rules 3110(b) and 3110.06 through .09.

[7] *See Regulatory Notice* 09–10 (February 2009).

[8] FINRA notes that in 2014 the Commission approved a proposed rule change to exclude from the filing requirements in Rule 2210(c) equity research reports as defined in Rule 2241 that concern only securities that are listed on a national securities exchange, other than research reports required to be filed with the Commission pursuant to Section 24(b) of the Investment Company Act. *See* Securities Exchange Act Release No. 72480 (June 26, 2014), 79 FR 37796 (July 2, 2014) (Order Approving File No. SR–FINRA–2014–012). In connection with that filing, FINRA indicated that it would consider a similar exclusion for debt research reports if and when a debt research rule was approved. FINRA has not yet made a determination whether to propose such an exclusion.

[9] *See supra* notes 4 and 5 for additional detail.

[10] 15 U.S.C. 78*o*–3(b)(6).

consistent application of the communications with the public rules and provide greater clarity to members and the public regarding FINRA's rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change brings clarity and consistency to FINRA rules without adding any burden on firms.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6) thereunder.[12]

A proposed rule change filed under Rule 19b–4(f)(6) under the Act[13] normally does not become operative before 30 days from the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. FINRA has asked the Commission to waiver the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The proposed rule change is designed to clarify the application of FINRA Rule 2210 to debt research reports as the result of the Commission's approval of a new FINRA debt research conflict of interest rule (Rule 2242).[15] A waiver of the 30-day operative delay will allow the proposed rule change to become operative on July 16, 2016, the same date on which Rule 2242 will be implemented.[16] Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative on July 16, 2016.[17]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–FINRA–2016–021 on the subject line.

Paper Comments

- Send paper comments in triplicate to Robert W. Errett, Deputy Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2016–021. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2016–021 and should be submitted on or before August 3, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Brent J. Fields,

Secretary.

[FR Doc. 2016–16478 Filed 7–12–16; 8:45 am]

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[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] *See* note 4 *supra*.

[16] *See* note 5 *supra*.

[17] For purposes of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78242; File No. SR–NYSEArca–2016–92]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Commentary .06 to Rule 6.8 To Extend the Pilot Program That Eliminated the Position Limits for Options on SPDR S&P 500 ETF

July 7, 2016.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act"),[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on June 29, 2016, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend Commentary .06 to Rule 6.8 to extend the pilot program that eliminated the position limits for options on SPDR S&P 500 ETF ("SPY") ("SPY Pilot Program"). The proposed rule change is available on the Exchange's Web site at

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

www.nyse.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Commentary .06 to Rule 6.8 to extend the time period of the SPY Pilot Program,[4] which is currently scheduled to expire on July 12, 2016, through July 12, 2017.

This filing does not propose any substantive changes to the SPY Pilot Program. In proposing to extend the SPY Pilot Program, the Exchange reaffirms its consideration of several factors that supported the original proposal of the SPY Pilot Program, including (1) the availability of economically equivalent products and their respective position limits, (2) the liquidity of the option and the underlying security, (3) the market capitalization of the underlying security and the related index, (4) the reporting of large positions and requirements surrounding margin, and (5) the potential for market on close volatility.

In the July 2015 Extension, the Exchange stated that if it were to propose an extension, permanent approval or termination of the program, the Exchange would submit, along with any filing proposing such amendments to the program, a report providing an analysis of the SPY Pilot Program covering the period since the previous extension (the "Pilot Report"). Accordingly, the Exchange is submitting a Pilot Report detailing the Exchange's experience with the SPY Pilot Program for the period covering thirteen (13) months from May 2015 to May 2016. The Pilot Report is attached as Exhibit 3 to this filing. The Exchange notes that it is unaware of any problems created by the SPY Pilot Program and does not foresee any as a result of the proposed extension. In extending the SPY Pilot Program, the Exchange states that if it were to propose another extension, permanent approval or termination of the program, the Exchange will submit another Pilot Report covering the period since the previous extension, which will be submitted at least 30 days before the end of the proposed extension. If the SPY Pilot Program is not extended or adopted on a permanent basis by July 12, 2017, the position limits for SPY would revert to limits in effect at the commencement of the pilot program. The proposed extension will allow the Exchange and the Commission additional time to further evaluate the SPY Pilot Program and its effect on the market.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[5] in general, and furthers the objectives of Section 6(b)(5) of the Act[6] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that extending the SPY Pilot Program promotes just and equitable principles of trade by permitting market participants, including market makers, institutional investors and retail investors, to establish greater positions when pursuing their investment goals and needs.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any aspect of competition, whether between the Exchange and its competitors, or among market participants. Instead, the proposed rule change is designed to allow the SPY Pilot Program to continue uninterrupted. Additionally, the Exchange expects all other SROs that currently have rules regarding the SPY Pilot Program to also extend the pilot program for an additional year.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[7]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[8] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[9] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange believes that waiver of the operative delay is consistent with the protection of investors and the public interest because it will allow the SPY Pilot Program to continue without interruption. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[10]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may

[4] *See* Securities Exchange Act Release No. 68001 (October 5, 2012), 77 FR 62303 (October 12, 2012). The SPY Pilot Program was subsequently extended. *See* Securities Exchange Act Release Nos. 70968 (December 3, 2013), 78 FR 73899 (December 9, 2013); 74029 (January 9, 2015), 80 FR 2161 (January 15, 2015); and 75415 (July 9, 2015), 80 FR 41541 (July 15, 2015) (the "July 2015 Extension").

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 240.19b–4(f)(6)(iii).

[10] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2016–92 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2016–92. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2016–92, and should be submitted on or before August 3, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Brent J. Fields,

Secretary.

[FR Doc. 2016–16483 Filed 7–12–16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78240; File No. SR–NYSEArca–2016–64]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, To List and Trade Shares of the AdvisorShares KIM Korea Equity ETF

July 7, 2016.

On May 2, 2016, NYSE Arca, Inc. ("Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares ("Shares") of the AdvisorShares KIM Korea Equity ETF ("Fund") under NYSE Arca Equities Rule 8.600. On May 13, 2016, the Exchange submitted Amendment No. 1 to the proposed rule change. The Commission published notice of the proposed rule change, as modified by Amendment No. 1, in the **Federal Register** on May 23, 2016.[3] On May 23, 2016, the Exchange submitted Amendment No. 2 to the proposed rule change.[4] The Commission received no comments on the proposed rule change.

Section 19(b)(2) of the Act[5] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The Commission is extending this 45-day time period. The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change.

Accordingly, the Commission, pursuant to section 19(b)(2) of the Act,[6] designates August 21, 2016 as the date by which the Commission shall either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR–NYSEArca–2016–64).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Brent J. Fields,

Secretary.

[FR Doc. 2016–16481 Filed 7–12–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78246; File No. SR–NASDAQ–2016–067]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Proposed Rule Change To Adopt Limit Order Protection

July 7, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 24, 2016, The Nasdaq Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Nasdaq's Rule 4757, entitled "Book Processing" to adopt a Limit Order Protection or "LOP" for members accessing the Nasdaq Market Center.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaq.cchwallstreet.com*, at the principal office of the Exchange, and

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 77847 (May 17, 2016), 81 FR 32364 (NYSEArca–2016–64).

[4] Amendment No. 2 is available at *https://www.sec.gov/comments/sr-nysearca-2016-64/nysearca201664-2.pdf*.

[5] 15 U.S.C. 78s(b)(2).

[6] *Id.*

[7] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt a new mechanism to protect against erroneous Limit Orders which are entered into the Nasdaq Market Center. Specifically, this new feature addresses risks to market participants of human error in entering Limit Orders at unintended prices. LOP would prevent certain Limit Orders from executing or being placed on the Order Book at prices outside pre-set standard limits. The System would reject those Limit Orders, rather than executing them automatically. The proposed LOP feature is similar to a risk feature which exists today on the NASDAQ Options Market LLC ("NOM")[3] and is available for Options Participants.

The Exchange proposes to adopt a new feature, LOP for Limit Orders, which would reject Limit Orders back to the member when the order exceeds certain defined logic. Specifically, the LOP feature would prevent certain Limit Orders at prices outside of pre-set standard limits ("LOP Limit") from being accepted by the System. LOP shall apply to all Quotes and Orders, including any modified Orders.[4] LOP would not apply to Market Orders, Market Maker Peg Orders[5] or Intermarket Sweep Orders (ISO).[6] A Market Maker Peg Order is a passive order type which will not otherwise remove liquidity from the Order Book. This order type was designed to assist Market Makers with meeting their quoting obligations. Market Makers have a diverse business model as compared with other market participants. Excluding the Market Maker Peg Order from the LOP will assist Market Makers in meeting their quoting obligations. The Exchange believes that because Market Makers have other risk protections in place to prevent them from quoting outside of their financial means, the risk level for erroneous trades is not the same as with other market participants. Market Makers have more sophisticated infrastructures than other market participants and are able to manage their risk, particularly with quoting, utilizing other tools which may not be available to other market participants. An ISO is immediately executable within the Nasdaq Market Center against orders against which they are marketable. The ISO designation on an order presumes that the market participant has satisfied their obligation to all protected quotes up to the limit of the ISO.

LOP would be operational each trading day, except for orders designated for opening and closing crosses and initial public offerings. LOP would not be operational during trading halts and pauses. Since Nasdaq Rules provided controls for the opening, closing and initial public offering processes within the Rulebook, the proposed protections are rendered ineffective for those processes.[7] Members will be subject to certain parameters when submitting Limit Orders into the Order Book. Also, LOP would not apply in the event that there is no established LOP Reference Price.[8] The LOP Reference Price shall be the current National Best Bid or Best Offer (NBBO), the bid for sell orders and the offer for buy orders.

The Exchange proposes to not accept incoming Limit Orders that exceed the LOP Reference Threshold. Limit Orders will not be accepted if the price of the Limit Order is greater than the LOP Reference Threshold for a buy Limit Order. Limit Orders will not be accepted if the price of the Limit Order is less than the LOP Reference Threshold for a sell Limit Order. The LOP Reference Threshold for buy orders will be the LOP Reference Price (offer) plus the applicable percentage specified [sic] in the LOP Limit. The LOP Reference Threshold for sell orders will be the LOP Reference Price (bid) minus the applicable percentage specified [sic] in the LOP Limit. The LOP Limit shall be the greater of 10% of the LOP Reference Price or $0.50 for all securities across all trading sessions. The LOP Reference Price shall be the current National Best Bid or Best Offer (NBBO), the bid for sell orders and the offer for buy orders.

The Exchange also notes that LOP will be applicable on all protocols.[9] The LOP feature will be mandatory for all Nasdaq members. The Exchange proposes to implement this rule within ninety (90) days of the approval of this proposed rule change. The Exchange will issue an Equities Trader Alert in advance to inform market participants of such implementation date.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[10] in general, and furthers the objectives of Section 6(b)(5) of the Act[11] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and

[3] *See* NOM Rules at Chapter VI, Section 6(c) and Section 18.

[4] If an Order is modified, LOP will review the order anew and, if LOP is triggered, such modification will not take effect and the original order will be rejected.

[5] A "Market Maker Peg Order" is an Order Type designed to allow a Market Maker to maintain a continuous two-sided quotation at a displayed price that is compliant with the quotation requirements for Market Makers set forth in Rule 4613(a)(2). The displayed price of the Market Maker Peg Order is set with reference to a "Reference Price" in order to keep the displayed price of the Market Maker Peg Order within a bounded price range. A Market Maker Peg Order may be entered through RASH, FIX or QIX only. A Market Maker Peg Order must be entered with a limit price beyond which the Order may not be priced. The Reference Price for a Market Maker Peg Order to buy (sell) is the then-current National Best Bid (National Best Offer) (including Nasdaq), or if no such National Best Bid or National Best Offer, the most recent reported last-sale eligible trade from the responsible single plan processor for that day, or if none, the previous closing price of the security as adjusted to reflect any corporate actions (*e.g.*, dividends or stock splits) in the security. *See* Nasdaq Rule 4702(b)(7).

[6] An Intermarket Sweep or ISO Order, which is an Order that is immediately executable within the Nasdaq Market Center against Orders against which they are marketable, is not subject to LOP. *See* NASDAQ Rule 4702. [sic]

[7] The Nasdaq Rulebook provides specific rules for certain auction mechanisms, such as the opening, closing and initial public offering process which contain their own protections with respect to the entry of Orders within those mechanisms and therefore are not subject to LOP. With respect to the open, Nasdaq has a process, namely the "Nasdaq Opening Cross," which shall occur at the price that maximizes the number of shares. *See* Rule 4752(a)(2)(F)(i)–(iii). [sic] With respect to the close, Nasdaq has a process, namely the "Nasdaq Closing Cross," for determining the price at which orders shall be executed at the close and for executing those orders. *See* Rule 4754(b)(2)(e.) [sic] With respect to initial public offerings, the Exchange may halt trading in a security that is the subject of an Initial Public Offering. *See* Rule 4120(a)(7). The Exchange's rules do not permit aberrant trading and require a security must pass the price validation. *See* Rule 4120(c)(8)(A).

[8] For example, if there is a one-sided quote or if the LOP Reference Price is less than the greater of 10% or $0.50.

[9] Nasdaq maintains several communications protocols for Participants to use in entering Orders and sending other messages to the Nasdaq Market Center, such as: OUCH, RASH, QIX, FLITE and FIX.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

open market and a national market system, and, in general to protect investors and the public interest, by mitigating risks to market participants of human error in entering Limit Orders at clearly unintended prices. The proposals are appropriate and reasonable, because they offer protections for Limit Orders which should encourage price continuity and, in turn, protect investors and the public interest by reducing executions occurring at dislocated prices.

The proposed LOP feature would assist with the maintenance of fair and orderly markets by mitigating the risks associated with errors resulting in executions at prices that are away from the Best Bid or Offer and potentially erroneous. Further the proposal protects investors from potentially receiving executions away from the prevailing prices at any given time. The Exchange proposes LOP to avoid a series of improperly priced aggressive orders transacting in the Order Book. The LOP Limit is appropriate because it seeks to capture improperly priced Limit Orders and reject them to reduce the risk of, and to potentially prevent, the automatic execution of Orders at prices that may be considered clearly erroneous. The System will only execute Limit Orders priced within the LOP Limit. The Exchange's proposed LOP Limit is a reasonable measure to ensure prices remain within the reasonable limits. This protection will bolster the normal resilience and market behavior that persistently produces robust reference prices. This feature should create a level of protection that prevents the Limit Orders from entering the Order Book outside of an acceptable range for the Limit Order to execute.

The LOP will reduce the negative impacts of sudden, unanticipated volatility, and serve to preserve an orderly market in a transparent and uniform manner, increase overall market confidence, and promote fair and orderly markets and the protection of investors. This feature is not optional and is applicable to all members submitting Limit Orders.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The LOP feature will provide market participants with additional price protection from anomalous executions. This feature is not optional and is applicable to all members submitting Limit Orders. Thus, the Exchange does not believe the proposal creates any significant impact on competition. This type of risk protection is in place today for NOM Options Participants.[12] Offering this protection to the Nasdaq Market Center will not impose any undue burden on intra-market competition, rather, it would permit equities and options members to be protected in a similar manner from erroneous executions.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2016–067 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2016–067. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2016–067 and should be submitted on or before August 3, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Brent J. Fields,

Secretary.

[FR Doc. 2016–16487 Filed 7–12–16; 8:45 am]

BILLING CODE 8011–01–P

[12] *See* NOM Rules at Chapter VI, Section 6(c) and Section 18.

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78249; File No. SR–BX–2016–038]

Self-Regulatory Organizations; NASDAQ BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend PRISM Pilot Program Through January 18, 2017

July 7, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 29, 2016, NASDAQ BX, Inc. ("BX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend BX rules at Chapter VI, Section 9, concerning a price-improvement mechanism, "PRISM" to extend, through January 18, 2017, a pilot program (the "pilot") concerning (i) the early conclusion of the PRISM Auction (as described below); (ii) an unrelated market or marketable limit order (against the BX BBO) on the opposite side of the market from the PRISM Order received during the Auction will not cause the Auction to end early and will execute against interest outside of the Auction; and (iii) no minimum size requirement of orders. The current pilot is scheduled to expire July 18, 2016.[3]

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqbx.cchwallstreet.com/*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to extend certain pilots within Chapter VI, Section 9, entitled "Price Improvement Auction ("PRISM"), through January 18, 2017.

Background

The Exchange adopted PRISM in November 2015 as a price-improvement mechanism on the Exchange.[4] This mechanism permits a Participant (an "Initiating Participant") to electronically submit for execution an order it represents as agent on behalf of a Public Customer,[5] Professional customer, broker dealer, or any other entity ("PRISM Order") against principal interest or against any other order it represents as agent (an "Initiating Order"), provided it submits the PRISM Order for electronic execution into the PRISM Auction ("Auction") pursuant to the Chapter VI, Section 9.[6] All options traded on the Exchange are eligible for PRISM.

Pilot Program

Three components of PRISM were approved by the Commission on a pilot basis: (1) The early conclusion of the PRISM Auction;[7] (2) an unrelated market or marketable limit order (against the BX BBO) on the opposite side of the market from the PRISM Order received during the Auction will not cause the Auction to end early and will execute against interest outside of the Auction; [8] and (3) no minimum size requirement of orders. The Exchange has provided the following additional information on a monthly basis.[9] The pilots were approved for a pilot period expiring on July 18, 2016.[10]

The Exchange notes that during the pilot period it has been required to submit, and has been submitting, certain data periodically as required by the Commission, to provide supporting evidence that, among other things, there is meaningful competition for all size orders and that there is an active and liquid market functioning on the Exchange outside of the Auction mechanism. Specifically, the Exchange has submitted the following data as specified in its approval order: [11]

(1) The number of contracts (of orders of 50 contracts or greater) entered into the PRISM;

(2) The number of contracts (of orders of fewer than 50 contracts) entered into the PRISM;

(3) The number of orders of 50 contracts or greater entered into the PRISM; and

(4) The number of orders of fewer than 50 contracts entered into the PRISM.

The Exchange will continue to provide such data. The Exchange believes that, because the pilot has been operating for a relatively short amount of time, the proposed extension should afford the Commission additional time to evaluate the pilot. The Exchange proposes to extend the pilot through January 18, 2017.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[12] in general and with Section 6(b)(5) of the Act,[13] in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, or to regulate by virtue of any authority conferred by the Act matters not related to the purposes of the Act or the administration of the Exchange.

The Exchange believes that the proposed rule change is also consistent with Section 6(b)(8) of the Act [14] in that it does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Specifically, the Exchange believes that PRISM, including the rules to which the pilot applies, results in increased liquidity available at improved prices, with competitive final pricing out of the Initiating Participant's complete control. The Exchange believes that PRISM promotes and fosters competition and affords the opportunity for price improvement to more options contracts. The extension proposal allows additional time for the Commission to evaluate the pilot.

[3] *See* Securities Exchange Release No. 76301 (October 29, 2015), 80 FR 68347 (November 4, 2015) (SR–BX–2015–032).

[4] *Id.*

[5] A Public Customer order does not include a Professional order, and therefore a Professional would not be entitled to Public Customer priority as described herein. A Public Customer means a person that is not a broker or dealer in securities. *See* BX Options Rules at Chapter I, Section 1(a)(50). A Public Customer order does not include a Professional order for purposes of BX Rule at Chapter VI, Section 10(1)(C)(1)(a), which governs allocation priority. A "Professional" means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). A Participant or a Public Customer may, without limitation, be a Professional. All Professional orders shall be appropriately marked by Participants. *See* BX Rules at Chapter I, Section 1(a)(49).

[6] BX will only conduct an auction for Simple Orders.

[7] *See* Chapter VI, Section 9(ii)(B)(4).

[8] *See* Chapter VI, Section 9(ii)(D).

[9] *See* Chapter VI, Section 9(vii).

[10] *See* note 3 above.

[11] *Id.*

[12] 15 U.S.C. 78f.

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78f(b)(8).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposal extends existing pilots that apply to all Exchange members, and enables the Exchange to be competitive in respect of other option exchanges that have similar programs.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [15] and subparagraph (f)(6) of Rule 19b–4 thereunder.[16]

A proposed rule change filed under Rule 19b–4(f)(6) [17] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[18] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requested that the Commission waive the 30-day operative delay. The Exchange stated that the proposed rule change does not involve any substantive changes to the Exchange's Rules and only seeks to extend the previously approved PRISM pilot. The Exchange also stated that the extension will ensure fair competition among exchanges by allowing the Exchange to continue with this pilot similar to other options exchanges that operate auctions. Finally, the Exchange stated that the waiver is consistent with the protection of investors and the public interest because it will permit the PRISM pilot to continue without interruption and will allow the Exchange to gather more information in connection with the pilot.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the PRISM pilot to continue uninterrupted, thereby avoiding any potential investor confusion that could result from a temporary interruption in the pilot. Therefore, the Commission designates the proposed rule change to be operative on July 18, 2016.[19]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BX–2016–038 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2016–038. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2016–038 and should be submitted on or before August 3, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Brent J. Fields,

Secretary.

[FR Doc. 2016–16491 Filed 7–12–16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78215A]

Corrected Order Extending a Temporary Exemption From Compliance With Rules 13n–1 to 13n–12 Under the Securities Exchange Act of 1934

June 30, 2016.

I. Introduction

On March 18, 2016, under its authority in section 36 of the Securities Exchange Act of 1934 ("Exchange Act"), the Securities and Exchange Commission ("Commission") granted a temporary exemption from compliance with Rules 13n–1 to 13n–12 ("SDR Rules") until June 30, 2016. The Commission also granted an extension of the exemptions from Exchange Act sections 13(n)(5)(D)(i), 13(n)(5)(F), 13(n)(5)(G), 13(n)(5)(H), 13(n)(7)(A), 13(n)(7)(B), 13(n)(7)(C) and 29(b) provided in the DFA Effective Date Order [1] ("SDR Relief"), as described in the Commission's March 18, 2016 order,

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[15] 15 U.S.C. 78s(b)(3)(a).

[16] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[17] 17 CFR 240.19b–4(f)(6).

[18] 17 CFR 240.19b–4(f)(6)(iii).

[19] For purposes only of waiving the operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[20] 17 CFR 200.30–3(a)(12).

[1] *See* Temporary Exemptions and Other Temporary Relief, Together with Information on Compliance Dates for New Provisions of the Exchange Act Applicable to Security-Based Swaps, Exchange Act Release No. 64678 (June 15, 2011), 76 FR 36287 (June 22, 2011) (the "DFA Effective Date Order").

such that the SDR Relief will expire on the earlier of (1) the date the Commission grants registration to an SDR and (2) June 30, 2016.[2] The Commission granted the exemptions to help facilitate the potential submission of any SDR applications at the time.

Since March 18, 2016, two entities have filed applications to register with the Commission as SDRs.[3] To allow the Commission additional time to review these applications prior to the compliance date for the SDR Rules and the expiration of the SDR Relief, the Commission is extending the exemptions granted in the March 18, 2016 order.

II. Discussion

The SDR Rules Release[4] states that SDRs were required to be in compliance with the SDR Rules by March 18, 2016. The SDR Rules Release also notes that, absent an exemption, any SDR must be registered with the Commission and in compliance with the federal securities laws and the rules and regulations thereunder (including the applicable Dodd-Frank Act provisions and all of the SDR Rules) by March 18, 2016.[5]

Since March 18, 2016, two entities have filed applications to register with the Commission as SDRs. ICE Trade Vault, LLC ("ICE Trade Vault") filed with the Commission a Form SDR seeking registration as an SDR on March 29, 2016 and amended that form on April 18, 2016. The Commission's notice of ICE Trade Vault's application for registration as an SDR was published in the **Federal Register** on April 28, 2016.[6] DTCC Data Repository (U.S.) LLC ("DDR") filed with the Commission a Form SDR seeking registration as an SDR on April 6, 2016 and amended that form on April 25, 2016. The Commission's notice of DDR's application for registration as an SDR was published in the **Federal Register** on July 7, 2016.[7] Rule 13n–1(c) provides that, within 90 days of the date of the publication of notice of the filing of an application for registration (or within such longer period as to which the applicant consents), the Commission will either grant the registration by order or institute proceedings to determine whether registration should be granted or denied.

Subject to certain exceptions, section 36 of the Exchange Act[8] authorizes the Commission, by rule, regulation, or order, to exempt, either conditionally or unconditionally, any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Exchange Act or any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors. The Commission finds that it is necessary and appropriate in the public interest, and consistent with the protection of investors, to grant a temporary exemption from compliance with the SDR Rules and an extension of the SDR Relief. The applications filed by ICE Trade Vault and DDR are the first SDR applications submitted to the Commission and therefore present issues of first impression for the Commission's consideration. Therefore, to allow the Commission additional time prior to the compliance date for the SDR Rules and the expiration of the SDR Relief to review the applications and consider issues related to the first applications for registration of SDRs, the Commission hereby grants, pursuant to Section 36 of the Exchange Act, a temporary exemption from compliance with the SDR Rules and an extension of the SDR Relief until October 5, 2016, which is 90 days from publication of notice of DDR's application for registration as a SDR.

By the Commission.

Brent J. Fields,

Secretary.

[FR Doc. 2016–16541 Filed 7–12–16; 8:45 am]

BILLING CODE 8011–01–P

[2] *See* Exchange Act Release No. 77400 (Mar. 18, 2016), 81 FR 15599 (Mar. 23, 2016) ("SDR Section 36 Order").

[3] *See* Exchange Act Release No. 77699 (Apr. 22, 2016), 81 FR 25475 (Apr. 28, 2016) ("ICE Trade Vault Notice") and Exchange Act Release No. 34–78216 (June 30, 2016), 81 FR 44379 (July 7, 2016) ("DDR Notice").

[4] *See* Exchange Act Release No. 74246 (Feb. 11, 2015), 80 FR 14438 (Mar. 19, 2015) ("SDR Rules Release").

[5] *See id.*, 80 FR at 14456. The SDR Rules Release also notes that all exemptions that the Commission provided in a previous release, including the exemption to provisions in Exchange Act Section 13(n), will expire on the March 18, 2016 compliance date. *See id.* (discussing the DFA Effective Date Order).

[6] *See* ICE Trade Vault Notice.

[7] *See* DDR Notice.

[8] 15 U.S.C. 78mm.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78245; File No. SR–Phlx–2016–58]

Self-Regulatory Organizations; NASDAQ PHLX LLC; Notice of Filing of Proposed Rule Change To Adopt Limit Order Protection

July 7, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 24, 2016, NASDAQ PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NASDAQ PSX Rule 3307, entitled "Processing of Orders" to adopt a Limit Order Protection or "LOP" for members accessing PSX.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt a new mechanism to protect against

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

erroneous Limit Orders which are entered into PSX. Specifically, this new feature addresses risks to market participants of human error in entering Limit Orders at unintended prices. LOP would prevent certain Limit Orders from executing or being placed on the Order Book at prices outside pre-set standard limits. The System would reject those Limit Orders, rather than executing them automatically.

The Exchange proposes to adopt a new feature, LOP for Limit Orders, which would reject Limit Orders back to the member when the order exceeds certain defined logic. The Exchange intends to apply LOP system wide. The Exchange reserves the ability to temporarily disable LOP for certain securities in the event of extraordinary market conditions in a certain symbol.[3] Specifically, the LOP feature would prevent certain Limit Orders at prices outside of pre-set standard limits ("LOP Limit") from being accepted by the System. LOP shall apply to all Quotes and Orders, including any modified Orders.[4] LOP would not apply to Market Orders, Market Maker Peg Orders [5] or Intermarket Sweep Orders (ISO).[6] A Market Maker Peg Order is a passive order type which will not otherwise remove liquidity from the Order Book. This order type was designed to assist Market Makers with meeting their quoting obligations. Market Makers have a diverse business model as compared with other market participants. Excluding the Market Maker Peg Order from the LOP will assist Market Makers in meeting their quoting obligations. The Exchange believes that because Market Makers have other risk protections in place to prevent them from quoting outside of their financial means, the risk level for erroneous trades is not the same as with other market participants. Market Makers have more sophisticated infrastructures than other market participants and are able to manage their risk, particularly with quoting, utilizing other tools which may not be available to other market participants. An ISO is immediately executable within PSX against orders against which they are marketable. The ISO designation on an order presumes that the market participant has satisfied their obligation to all protected quotes up to the limit of the ISO.

LOP would be operational each trading day. LOP would not be operational during trading halts and pauses. Also, LOP would not apply in the event that there is no established LOP Reference Price.[7] The LOP Reference Price shall be the current National Best Bid or Best Offer (NBBO), the bid for sell orders and the offer for buy orders.

The Exchange proposes to not accept incoming Limit Orders that exceed the LOP Reference Threshold. Limit Orders will not be accepted if the price of the Limit Order is greater than the LOP Reference Threshold for a buy Limit Order. Limit Orders will not be accepted if the price of the Limit Order is less than the LOP Reference Threshold for a sell Limit Order. The LOP Reference Threshold for buy orders will be the LOP Reference Price (offer) plus the applicable percentage specified [sic] in the LOP Limit. The LOP Reference Threshold for sell orders will be the LOP Reference Price (bid) minus the applicable percentage specified [sic] in the LOP Limit. The LOP Limit shall be the greater of 10% of the LOP Reference Price or $0.50 for all securities across all trading sessions. The LOP Reference Price shall be the current National Best Bid or Best Offer (NBBO), the bid for sell orders and the offer for buy orders.

The Exchange also notes that LOP will be applicable on all protocols.[8] The LOP feature will be mandatory for all PSX members. The Exchange proposes to implement this rule within ninety (90) days of the approval of this proposed rule change. The Exchange will issue an Equities Trader Alert in advance to inform market participants of such implementation date.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [9] in general, and furthers the objectives of Section 6(b)(5) of the Act [10] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by mitigating risks to market participants of human error in entering Limit Orders at clearly unintended prices. The proposals are appropriate and reasonable, because they offer protections for Limit Orders which should encourage price continuity and, in turn, protect investors and the public interest by reducing executions occurring at dislocated prices.

The proposed LOP feature would assist with the maintenance of fair and orderly markets by mitigating the risks associated with errors resulting in executions at prices that are away from the Best Bid or Offer and potentially erroneous. Further the proposal protects investors from potentially receiving executions away from the prevailing prices at any given time. The Exchange proposes LOP to avoid a series of improperly priced aggressive orders transacting in the Order Book. The LOP Limit is appropriate because it seeks to capture improperly priced Limit Orders and reject them to reduce the risk of, and to potentially prevent, the automatic execution of Orders at prices that may be considered clearly erroneous. The System will only execute Limit Orders priced within the LOP Limit. The proposed limit of greater than 10% or $0.50 is a reasonable measure to ensure prices remain within the reasonable limits. This protection will bolster the normal resilience and market behavior that persistently produces robust reference prices. This feature should create a level of protection that prevents the Limit Orders from entering the Order Book outside of an acceptable range for the Limit Order to execute.

The LOP will reduce the negative impacts of sudden, unanticipated volatility, and serve to preserve an orderly market in a transparent and uniform manner, increase overall

[3] For example, LOP may cause a greater number of orders to be rejected in a very volatile market. In the event that the Exchange were to disable LOP in a particular symbol temporarily, the Exchange would immediately notify market participants by sending an alert via an Equities Trader Alert. The Exchange would enable LOP in that symbol as soon as is reasonably practicable and send an updated alert notifying participants that LOP was enabled.

[4] If an Order is modified, LOP will review the order anew and, if LOP is triggered, such modification will not take effect and the original order will be rejected [sic]

[5] A "Market Maker Peg Order" is an Order Type designed to allow a Market Maker to maintain a continuous two-sided quotation at a displayed price that is compliant with the quotation requirements for Market Makers set forth in Rule 3213 (a)(2). The displayed price of the Market Maker Peg Order is set with reference to a "Reference Price" in order to keep the displayed price of the Market Maker Peg Order within a bounded price range. A Market Maker Peg Order may be entered through RASH or FIX. A Market Maker Peg Order must be entered with a limit price beyond which the Order may not be priced. The Reference Price for a Market Maker Peg Order to buy (sell) is the then-current National Best Bid (National Best Offer) or if no such National Best Bid or National Best Offer, the most recent reported last-sale eligible trade from the responsible single plan processor for that day, or if none, the previous closing price of the security as adjusted to reflect any corporate actions (*e.g.*, dividends or stock splits) in the security. *See* PSX Rule 3301A.

[6] An Intermarket Sweep or ISO Order, which is an Order that is immediately executable within PSX against Orders against which they are marketable, is not subject to LOP. *See* PSX Rule 3401(g).

[7] For example, if there is a one-sided quote or if the LOP Reference Price is less than the greater of 10% or $0.50.

[8] PSX maintains several communications protocols for members to use in entering Orders and sending other messages to PSX, such as: OUCH, RASH, FLITE and FIX.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

market confidence, and promote fair and orderly markets and the protection of investors. This feature is not optional and is applicable to all members submitting Limit Orders.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The LOP feature will provide market participants with additional price protection from anomalous executions. This feature is not optional and is applicable to all members submitting Limit Orders. Thus, the Exchange does not believe the proposal creates any significant impact on competition. Offering this protection to the PSX will not impose any undue burden on intra-market competition, rather, it would permit equities and options members to be protected in a similar manner from erroneous executions.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–Phlx–2016–58 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2016–58. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2016–58 and should be submitted on or before August 3, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Brent J. Fields,

Secretary.

[FR Doc. 2016–16486 Filed 7–12–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Rule 15Ba2–1 and Form MSD; SEC File No. 270–0088, OMB Control No. 3235–0083.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 ("PRA") (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the existing collection of information provided for in Rule 15Ba2–1 (17 CFR 240.15Ba2–1) and Form MSD (17 CFR 249.1100), under the Securities and Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) ("Exchange Act"). The Commission plans to submit this existing collection of information to the Office of Management and Budget ("OMB") for extension and approval.

Rule 15Ba2–1 provides that an application for registration with the Commission by a bank municipal securities dealer must be filed on Form MSD. The Commission uses the information obtained from Form MSD filings to determine whether bank municipal securities dealers meet the standards for registration set forth in the Act, to maintain a central registry where members of the public may obtain information about particular bank municipal securities dealers, and to develop risk assessment information about bank municipal securities dealers.

Based upon past submissions, the staff estimates that approximately 21 respondents will utilize this application procedure annually. The staff estimates that the average number of hours necessary to comply with the requirements of Rule 15Ba2–1 and Form MSD is 1.5 hours per respondent, for a total burden of approximately 31.5 hours per year. The staff estimates that the average internal compliance cost per hour is approximately $343. Therefore, the estimated total annual cost of compliance for the respondents is approximately $10,805.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to

[11] 17 CFR 200.30–3(a)(12).

respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: July 6, 2016.

Brent J. Fields,

Secretary.

[FR Doc. 2016–16494 Filed 7–12–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Rule 15Bc3–1 and Form MSDW; SEC File No. 270–93, OMB Control No. 3235–0087.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 ("PRA") (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the existing collection of information provided for in Rule 15Bc3–1 (17 CFR 15Bc3–1) and Form MSDW (17 CFR 249.1110) under the Securities Exchange Act of 1934 (17 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget ("OMB") for extension and approval.

Rule 15Bc3–1 provides that a notice of withdrawal from registration with the Commission as a bank municipal securities dealer must be filed on Form MSDW. The Commission uses the information submitted on Form MSDW in determining whether it is in the public interest to permit a bank municipal securities dealer to withdraw its registration. This information is also important to the municipal securities dealer's customers and to the public, because it provides, among other things, the name and address of a person to contact regarding any of the municipal securities dealer's unfinished business.

Based upon past submissions, the staff estimates that, on an annual basis, approximately five bank municipal securities dealers will file a notice of withdrawal from registration with the Commission as a bank municipal securities dealer on Form MSDW. The staff estimates that the average number of hours necessary to comply with the notice requirements set out in Rule 15Bc3–1 and Form MSDW is 0.5 per respondent, for a total burden of 2.5 hours per year. The staff estimates that the average internal compliance cost per hour is approximately $343. Therefore, the estimated total cost of compliance for the respondents is approximately $858.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (b) the accuracy of the Commission's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: July 6, 2016.

Brent J. Fields,

Secretary.

[FR Doc. 2016–16495 Filed 7–12–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78250; File No. SR–BX–2016–039]

Self-Regulatory Organizations; NASDAQ BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt Rules To Implement the Quoting and Trading Provisions of the Plan To Implement a Tick Size Pilot Program

July 7, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 24, 2016, NASDAQ BX, Inc. ("BX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt rules under Rule 4770 to implement the quoting and trading provisions of the Plan to Implement a Tick Size Pilot Program submitted to the Commission pursuant to Rule 608 of Regulation NMS[3] under the Act (the "Plan").[4] The proposed rule change is substantially similar to proposed rule changes recently approved or published by the Commission by New York Stock Exchange LLC to adopt NYSE Rules 67(a) and 67(c)–(e), which also implemented the quoting and trading provisions of the Plan.[5]

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxbx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 242.608.

[4] *See* Securities and Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (File No. 4–657) ("Tick Plan Approval Order"). *See also* Securities and Exchange Act Release No. 76382 (November 6, 2015) (File No. 4–657), 80 FR 70284 (File No. 4–657) (November 13, 2015), which extended the pilot period commencement date from May 6, 2015 to October 3, 2016.

[5] *See* Securities Exchange Act Release No. 76229 (October 22, 2015), 80 FR 66065 (October 28, 2015) (SR–NYSE–2015–46), as amended by Partial Amendments No. 1 and No. 2 to the Quoting & Trading Rules Proposal. *See* Securities Exchange Act Release No. 77703 (April 25, 2016), 81 FR 25725 (April 29, 2016) (SR–NYSE–2015–46).

forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to establish rules to require its members to comply with the requirements of the Plan, which is designed to study and assess the impact of increment conventions on the liquidity and trading of the common stocks of small capitalization companies. The Exchange proposes changes to its rules for a two-year pilot period that coincides with the pilot period for the Plan, which is currently scheduled as a two year pilot to begin on October 3, 2016.

Background

On August 25, 2014, NYSE Group, Inc., on behalf of Bats BZX Exchange, Inc. (f/k/a BATS Exchange, Inc.), Bats BYX Exchange, Inc. (f/k/a BATS Y–Exchange, Inc.), Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., the Exchange [sic], Financial Industry Regulatory Authority, Inc. ("FINRA"), NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, New York Stock Exchange LLC, the Exchange [sic] and NYSE Arca, Inc., and the NYSE MKT LLC, (collectively "Participants"), filed with the Commission, pursuant to Section 11A of the Act[6] and Rule 608 of Regulation NMS thereunder, the Plan to Implement a Tick Size Pilot Program.[7] The Participants filed the Plan to comply with an order issued by the Commission on June 24, 2014 (the "June 2014 Order").[8] The Plan[9] was published for comment in the **Federal Register** on November 7, 2014,[10] and approved by the Commission, as modified, on May 6, 2015.[11]

The Plan is designed to allow the Commission, market participants, and the public to study and assess the impact of increment conventions on the liquidity and trading of the common stocks of small capitalization companies. The Commission plans to use the Tick Size Pilot Program to assess whether wider tick sizes enhance the market quality of Pilot Securities for the benefit of issuers and investors. Each Participant is required to comply with, and to enforce compliance by its member, as applicable, with the provisions of the Plan.

On October 9, 2015, the Operating Committee approved the Exchange's proposed rules as model Participant rules that would require compliance by a Participant's members with the provisions of the Plan, as applicable, and would establish written policies and procedures reasonably designed to comply with applicable quoting and trading requirements specified in the Plan.[12] As described more fully below, the proposed rules would require members to comply with the Plan and provide for the widening of quoting and trading increments for Pilot Securities, consistent with the Plan.

The Plan will include stocks of companies with $3 billion or less in market capitalization, an average daily trading volume of one million shares or less, and a volume weighted average price of at least $2.00 for every trading day. The Plan will consist of a control group of approximately 1,400 Pilot Securities and three test groups with 400 Pilot Securities in each selected by a stratified sampling.[13] During the pilot, Pilot Securities in the control group will be quoted at the current tick size increment of $0.01 per share and will trade at the currently permitted increments. Pilot Securities in the first test group ("Test Group One") will be quoted in $0.05 minimum increments but will continue to trade at any price increment that is currently permitted.[14] Pilot Securities in the second test group ("Test Group Two") will be quoted in $0.05 minimum increments and will trade at $0.05 minimum increments subject to a midpoint exception, a retail investor exception, and a negotiated trade exception.[15] Pilot Securities in the third test group ("Test Group Three") will be subject to the same terms as Test Group Two and also will be subject to the "Trade-at" requirement to prevent price matching by a person not displaying at a price of a Trading Center's "Best Protected Bid" or "Best Protected Offer," unless an enumerated exception applies.[16] In addition to the exceptions provided under Test Group Two, an exception for Block Size orders and exceptions that closely resemble those under Rule 611 of Regulation NMS[17] will apply to the Trade-at requirement.

The Plan also contains requirements for the collection and transmission of data to the Commission and the public. A variety of data generated during the Plan will be released publicly on an aggregated basis to assist in analyzing the impact of wider tick sizes on smaller capitalization stocks.[18]

Proposed Rules 4770(a) and (c)

The Plan requires the Exchange to establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with applicable quoting and trading requirements specified in the Plan.[19] Accordingly, the Exchange is proposing new Rule 4770(a) to require its members to comply with the quoting and trading provisions of the Plan. The proposed Rules are also designed to ensure the Exchange's compliance with the Plan.

Proposed paragraph (a)(1) of new Rule 4770 would establish the following defined terms:

- "Plan" means the Tick Size Pilot Plan submitted to the Commission pursuant to Rule 608(a)(3) of Regulation NMS under the Act.
- "Pilot Test Groups" means the three test groups established under the Plan, consisting of 400 Pilot Securities each, which satisfy the respective criteria established by the Plan for each such test group.
- "Retail Investor Order" would mean an agency order or a riskless principal order that meets the criteria of FINRA Rule 5320.03 that originates from a natural person and is submitted to the Exchange by a retail member, provided that no change is made to the

[6] 15 U.S.C. 78k–1.

[7] *See* Letter from Brendon J. Weiss, Vice President, Intercontinental Exchange, Inc., to Secretary, Commission, dated August 25, 2014.

[8] *See* Securities Exchange Act Release No. 72460 (June 24, 2014), 79 FR 36840 (June 30, 2014).

[9] Unless otherwise specified, capitalized terms used in this rule filing are based on the defined terms of the Plan.

[10] *See* Securities and Exchange Act Release No. 73511 (November 3, 2014), 79 FR 66423 (File No. 4–657) (Tick Plan Filing).

[11] *See* Tick Plan Approval Order, *supra* note 4. *See also* Securities Exchange Act Release No. 77277 (March 3, 2016), 81 FR 12162 (March 8, 2016) (File No. 4–657), which amended the Plan to add National Stock Exchange, Inc. as a Participant.

[12] The Operating Committee is required under Section III(C)(2) of the Plan to "monitor the procedures established pursuant to the Plan and advise Participants with respect to any deficiencies, problems, or recommendations as the Operating Committee may deem appropriate." The Operating Committee is also required to "establish specifications and procedures for the implementation and operation of the Plan that are consistent with the provisions of the Plan."

[13] *See* Section V of the Plan for identification of Pilot Securities, including criteria for selection and grouping.

[14] *See* Section VI(B) of the Plan. Pilot Securities in Test Group One will be subject to a midpoint exception and a retail investor exception.

[15] *See* Section VI(C) of the Plan.

[16] *See* Section VI(D) of the Plan.

[17] 17 CFR 242.611.

[18] *See* Section VII of the Plan.

[19] The Exchange was also required by the Plan to develop appropriate policies and procedures that provide for data collection and reporting to the Commission of data described in Appendixes B and C of the Plan. *See* Securities Exchange Act Release No. 77457 (March 28, 2016), 81 FR 18913 (April 1, 2016) (SR–BX–2016–019).

terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology. A Retail Investor Order may be an odd lot, round lot, or partial round lot.[20]

• Trade-at Intermarket Sweep Order" [21] would mean a limit order for a Pilot Security that meets the following requirements:

(i) When routed to a Trading Center, the limit order is identified as a Trade-at Intermarket Sweep Order; and

(ii) Simultaneously with the routing of the limit order identified as a Trade-at Intermarket Sweep Order, one or more additional limit orders, as necessary, are routed to execute against the full size of any protected bid, in the case of a limit order to sell, or the full displayed size of any protected offer, in the case of a limit order to buy, for the Pilot Security with a price that is better than or equal to the limit price of the limit order identified as a Trade-at Intermarket Sweep Order. These additional routed orders also must be marked as Trade-at Intermarket Sweep Orders.

• Paragraph (a)(1)(E) would provide that all capitalized terms not otherwise defined in this rule shall have the meanings set forth in the Plan, Regulation NMS under the Act, or Exchange rules, as applicable.

Proposed Paragraph (a)(2) would state that the Exchange is a Participant in, and subject to the applicable requirements of, the Plan; proposed Paragraph (a)(3) would require members to establish, maintain and enforce written policies and procedures that are reasonably designed to comply with the applicable requirements of the Plan, which would allow the Exchange to enforce compliance by its members with the provisions of the Plan, as required pursuant to Section II(B) of the Plan.

In addition, Paragraph (a)(4) would provide that Exchange systems would not display, quote or trade in violation of the applicable quoting and trading requirements for a Pilot Security specified in the Plan and this proposed rule, unless such quotation or transaction is specifically exempted under the Plan.[22]

The Exchange also proposes to add Rule 4770(a)(5) to provide for the treatment of Pilot Securities that drop below a $1.00 value during the Pilot Period.[23] The Exchange proposes that if the price of a Pilot Security drops below $1.00 during regular trading on any given business day, such Pilot Security would continue to be subject to the Plan and the requirements described below that necessitate members to comply with the specific quoting and trading obligations for each respective Pilot Test Group under the Plan, and would continue to trade in accordance with the proposed rules below as if the price of the Pilot Security had not dropped below $1.00. However, if the Closing Price of a Pilot Security on any given business day is below $1.00, such Pilot Security would be moved out of its respective Pilot Test Group into the control group (which consists of Pilot Securities not placed into a Pilot Test Group), and may then be quoted and traded at any price increment that is currently permitted by Exchange rules for the remainder of the Pilot Period. Notwithstanding anything contained herein to the contrary, the Exchange proposes that, at all times during the Pilot Period, Pilot Securities (whether in the control group or any Pilot Test Group) would continue to be subject to the data collection rules, which are enumerated in Rule 4770(b).

The Exchange proposes Rules 4770(c)(1)–(3), which would require members to comply with the specific quoting and trading obligations for each Pilot Test Group under the Plan. With regard to Pilot Securities in Test Group One, proposed Rule 4770(c)(1) would provide that no member may display, rank, or accept from any person any displayable or non-displayable bids or offers, orders, or indications of interest in increments other than $0.05. However, orders priced to trade at the midpoint of the National Best Bid and National Best Offer ("NBBO") or Best Protected Bid and Best Protected Offer ("PBBO") and orders entered in the Exchange's Retail Price Improvement Program as Retail Price Improving Orders (as defined in Rule 4780(a)(3)) [24] may be ranked and accepted in increments of less than $0.05. Pilot Securities in Test Group One may continue to trade at any price increment that is currently permitted by Rule 4701(k).[25]

With regard to Pilot Securities in Test Group Two, proposed Rule 4770(c)(2)(A) would provide that such

[20] This definition is the approved definition for "Retail Investor Order" as contemplated by the Plan. It is also the same definition as given to a "Retail Order" pursuant to the approved rules of the Exchange, other national securities exchanges' retail orders. *See* Rule 4702(b)(6)(A). *See also* NYSE Rule 107C(a)(3), NYSE Arca, Inc. Rule 7.44(a)(3), NYSE MKT LLC Rule 107C(a)(3), and BATS Y–Exchange, Inc. Rule 11.24(a)(2). The Retail Investor Order definition includes any order originating from a natural person. Therefore, any member that operates a Trading Center may execute against a Retail Investor Order otherwise than on an exchange to satisfy the retail investor order exception proposed in Rule 4770.

[21] The Plan defines a Trade-at Intermarket Sweep Order ("ISO") as a limit order for a Pilot Security that, when routed to a Trading Center, is identified as an ISO, and simultaneous with the routing of the limit order identified as an ISO, one or more additional limit orders, as necessary, are routed to execute against the full displayed size of any protected bid (in the case of a limit order to sell) or the full displayed size of any protected offer (in the case of a limit order to buy) for the Pilot Security with a price that is equal to the limit price of the limit order identified as an ISO. These additional routed orders also must be marked as ISOs. *See* Plan, Section I(MM). Since the Plan allows (i) an order that is identified as an ISO to be executed at the price of a Protected Quotation (*see* Plan, Section VI(D)(8) and proposed Rule 4770(c)(3)(D)(iii)i.) and (ii) an order to execute at the price of a Protected Quotation that "is executed by a trading center that simultaneously routed Trade-at ISO to execute against the full displayed size of the Protected Quotation that was trade at" (*see* Plan, Section VI(D)(9) and proposed Rule 4770(c)(3)(D)(iii)j.)), the Exchange proposes to clarify the use of an ISO in connection with the Trade-at requirement by adopting, as part of proposed Rule 4770(a)(1), a comprehensive definition of "Trade-at ISO." As set forth in the Plan and as noted above, the definition of a Trade-at ISO used in the Plan does not distinguish ISOs that are compliant with Rule 611 or Regulation NMS from ISOs that are compliant with Trade-at. The Exchange therefore proposes the separate definition of Trade-at ISO contained in proposed Rule 4770(a). The Exchange believes that this proposed definition will further clarify to recipients of ISOs in Test Group Three securities whether the ISO satisfies the requirements of Rule 611 of Regulation NMS or Trade-at.

[22] The Exchange is still evaluating its internal policies and procedures to ensure compliance with the Plan, and plans to separately propose rules that would address violations of the Plan.

[23] New York Stock Exchange LLC, on behalf of the Participants, submitted a letter to Commission requesting exemption from certain provisions of the Plan related to quoting and trading. *See* letter from Elizabeth K. King, NYSE, to Brent J. Fields, Secretary, Commission, dated October 14, 2015 (the "October Exemption Request"). FINRA, also on behalf of the Plan Participants, submitted a separate letter to Commission requesting additional exemptions from certain provisions of the Plan related to quoting and trading. *See* letter from Marcia E. Asquith, Senior Vice President and Corporate Secretary, FINRA, to Robert W. Errett, Deputy Secretary, Commission, dated February 23, 2016 (the "February Exemption Request," and together with the October Exemption Request, the "Exemption Request Letters"). The Commission, pursuant to its authority under Rule 608(e) of Regulation NMS, granted New York Stock Exchange LLC a limited exemption from the requirement to comply with certain provisions of the Plan as specified in the Exemption Request Letters and noted herein. *See* letter from David Shillman, Associate Director, Division of Trading and Markets, Commission to Sherry Sandler, Associate General Counsel, New York Stock Exchange LLC, dated April 25, 2016 (the "Exemption Letter"). The Exchange is seeking the same exemptions as requested in the Exemption Request Letters, including without limitation, an exemption relating to proposed Rule 4770(a)(5).

[24] A Retail Price Improvement Order is an Order Type with a Non-Display Order Attribute that is held on the Exchange Book in order to provide liquidity at a price at least $0.001 better than the NBBO through a special execution process described in Rule 4780. *See* Rules 4780(a)(3) and 4702(b)(5).

[25] Rule 4701(k) describes the minimum price variation for quoting and entry of orders in equity securities listed on the Exchange or a national securities exchange other than the Exchange.

Pilot Securities would be subject to all of the same quoting requirements as described above for Pilot Securities in Test Group One, along with the applicable quoting exceptions. In addition, proposed Rule 4770(c)(2)(B) would provide that, absent one of the listed exceptions in proposed 4770(c)(2)(C) enumerated below, no member may execute orders in any Pilot Security in Test Group Two in price increments other than $0.05. The $0.05 trading increment would apply to all trades, including Brokered Cross Trades.

Paragraph (2)(C) would set forth further requirements for Pilot Securities in Test Group Two. Specifically, members trading Pilot Securities in Test Group Two would be allowed to trade in increments less than $0.05 under the following circumstances:

(i) Trading may occur at the midpoint between the NBBO or PBBO;

(ii) Retail Investor Orders may be provided with price improvement that is at least $0.005 better than the PBBO;

(iii) Negotiated Trades may trade in increments less than $0.05; and

(iv) Execution of a customer order to comply with IM–2110–2 [26] following the execution of a proprietary trade by the member at an increment other than $0.05, where such proprietary trade was permissible pursuant to an exception under the Plan.[27]

Paragraph (3)(A)–(3)(C) would set forth the requirements for Pilot Securities in Test Group Three. Members quoting or trading such Pilot Securities would be subject to all of the same quoting and trading requirements as described above for Pilot Securities in Test Group Two, including the quoting and trading exceptions applicable to Pilot Securities in Test Group Two. In addition, proposed Paragraph (3)(D) would provide for an additional prohibition on Pilot Securities in Test Group Three referred to as the "Trade-at Prohibition." [28] Paragraph (3)(D)(ii) would provide that, absent one of the listed exceptions in proposed Rule 4770(c)(3)(D)(iii) enumerated below, no member may execute a sell order for a Pilot Security in Test Group Three at the price of a Protected Bid or execute a buy order for a Pilot Security in Test Group Three at the price of a Protected Offer.

Proposed Rule 4770(c)(3)(D)(iii) would allow members to execute a sell order for a Pilot Security in Test Group Three at the price of a Protected Bid or execute a buy order for a Pilot Security in Test Group Three at the price of a Protected Offer if any of the following circumstances exist:

a. The order is executed as agent or riskless principal by an independent trading unit, as defined under Rule 200(f) of Regulation SHO,[29] of a Trading Center within a member that has a displayed quotation as agent or riskless principal, via either a processor or an SRO Quotation Feed, at a price equal to the traded-at Protected Quotation, that was displayed before the order was received,[30] but only up to the full displayed size of that independent trading unit's previously displayed quote; [31]

b. The order is executed by an independent trading unit, as defined under Rule 200(f) of Regulation SHO, of a Trading Center within a member that has a displayed quotation for the account of that Trading Center on a principal (excluding riskless principal [32]) basis, via either a processor or an SRO Quotation Feed, at a price equal to the traded-at Protected Quotation, that was displayed before the order was received, but only up to the full displayed size of that independent unit's previously displayed quote; [33]

c. The order is of Block Size [34] at the time of origin and may not be:

A. an aggregation of non-block orders;

B. broken into orders smaller than Block Size prior to submitting the order to a Trading Center for execution; or

C. executed on multiple Trading Centers; [35]

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[26] Exchange IM–2110–2 "Trading Ahead of Customer Limit Order" incorporates by reference NASD IM–2110, which was replaced by FINRA Rule 5320. FINRA Rule 5320 is titled "Prohibition Against Trading Ahead of Customer Orders," which states:

(a) Except as provided herein, a member that accepts and holds an order in an equity security from its own customer or a customer of another broker-dealer without immediately executing the order is prohibited from trading that security on the same side of the market for its own account at a price that would satisfy the customer order, unless it immediately thereafter executes the customer order up to the size and at the same or better price at which it traded for its own account.

(b) A member must have a written methodology in place governing the execution and priority of all pending orders that is consistent with the requirements of this Rule and Rule 5310. A member also must ensure that this methodology is consistently applied.

[27] The Exchange proposes to add this exemption to permit members to fill a customer order in a Pilot Security at a non-nickel increment to comply with IM–2110–2 under limited circumstances. Specifically, the exception would allow the execution of a customer order following a proprietary trade by the member at an increment other than $0.05 in the same security, on the same side and at the same price as (or within the prescribed amount of) a customer order owed a fill pursuant to IM–2110–2, where the triggering proprietary trade was permissible pursuant to an exception under the Plan. The Commission granted New York Stock Exchange LLC an exemption from Rule 608(c) related to this provision. *See* Exemption Letter, *supra* note 23. The Exchange is seeking the same exemptions as requested in the Exemption Request Letters. The Exchange believes such an exception best facilitates the ability of members to continue to protect customer orders while retaining the flexibility to engage in proprietary trades that comply with an exception to the Plan.

[28] Proposed 4770(c)(3)(D)(i) would define the "Trade-at Prohibition" to mean the prohibition against executions by a Trading Center of a sell order for a Pilot Security at the price of a Protected Bid or the execution of a buy order for a Pilot Security at the price of a Protected Offer during regular trading hours.

[29] The Exchange is proposing that, for proposed Rules 4770(c)(3)(D)(iii)a. and b., a Trading Center operated by a broker-dealer would mean an independent trading unit, as defined under Rule 200(f) of Regulation SHO, within such broker-dealer. *See* 17 CFR 242.200.

Independent trading unit aggregation is available if traders in an aggregation unit pursue only the particular trading objective(s) or strategy(s) of that aggregation unit and do not coordinate that strategy with any other aggregation unit. Therefore, a Trading Center cannot rely on quotations displayed by that broker dealer from a different independent trading unit. As an example, an agency desk of a broker-dealer cannot rely on the quotation of a proprietary desk in a separate independent trading unit at that same broker-dealer.

[30] The Exchange is proposing to adopt this limitation to ensure that a Trading Center does not display a quotation after the time of order receipt solely for the purpose of trading at the price of a protected quotation without routing to that protected quotation.

[31] This proposed exception to Trade-at would allow a Trading Center to execute an order at the Protected Quotation in the same capacity in which it has displayed a quotation at a price equal to the Protected Quotation and up to the displayed size of such displayed quotation.

[32] As described above, proposed Rule 4770(c)(3)(D)(iii)a. would establish the circumstances in which a Trading Center displaying an order as riskless principal would be permitted to Trade-at the Protected Quotation. Accordingly, the Exchange proposes that proposed Rule 4770(c)(3)(D)(iii)b. would exclude such circumstances.

[33] The display exceptions to Trade-at set forth in proposed Rules 4770(c)(3)(D)(iii)a. and b. would not permit a broker-dealer to trade on the basis of interest it is not responsible for displaying. In particular, a broker-dealer that matches orders in the over-the-counter market shall be deemed to have "executed" such orders as a Trading Center for purposes of proposed Rule 4770. Accordingly, if a broker-dealer is not displaying a quotation at a price equal to the Protected Quotation, it could not submit matched trades to an alternative trading center ("ATS") that was displaying on an agency basis the quotation of another ATS subscriber. However, a broker-dealer that is displaying, as principal, via either a processor or an SRO Quotation Feed, a buy order at the protected bid, could internalize a customer sell order up to its displayed size. The display exceptions would not permit a non-displayed Trading Center to submit matched trades to an ATS that was displaying on an agency basis the quotation of another ATS subscriber and confirmed that a broker-dealer would not be permitted to trade on the basis of interest that it is not responsible for displaying.

[34] "Block Size" is defined in the Plan as an order (1) of at least 5,000 shares or (2) for a quantity of stock having a market value of at least $100,000.

[35] Once a Block Size order or portion of such Block Size order is routed from one Trading Center to another Trading Center in compliance with Rule 611 of Regulation NMS, the Block Size order would not lose the Trade-at exemption provided under proposed Rule 4770(c)(3)(D)(iii)c. For example, if an exchange has a Protected Bid of 3,000 shares, with

Continued

d. The order is a Retail Investor Order executed with at least $0.005 price improvement;

e. The order is executed when the Trading Center displaying the Protected Quotation that was traded at was experiencing a failure, material delay, or malfunction of its systems or equipment;

f. The order is executed as part of a transaction that was not a "regular way" contract;

g. The order is executed as part of a single-priced opening, reopening, or closing transaction on the Exchange;

h. The order is executed when a Protected Bid was priced higher than a Protected Offer in the Pilot Security in Test Group Three;

i. The order is identified as a Trade-at Intermarket Sweep Order; [36]

j. The order is executed by a Trading Center that simultaneously routed Trade-at Intermarket Sweep Orders to execute against the full displayed size of the Protected Quotation that was traded at; [37]

k. The order is executed as part of a Negotiated Trade;

l. The order is executed when the Trading Center displaying the Protected Quotation that was traded at had displayed, within one second prior to execution of the transaction that constituted the Trade-at, a Best Protected Bid or Best Protected Offer, as applicable, for the Pilot Security in Test Group Three with a price that was inferior to the price of the Trade-at transaction;

m. The order is executed by a Trading Center which, at the time of order receipt, the Trading Center had guaranteed an execution at no worse than a specified price (a "stopped order"), where:

A. The stopped order was for the account of a customer;

B. The customer agreed to the specified price on an order-by-order basis; and

C. The price of the Trade-at transaction was, for a stopped buy order, equal to or less than the National Best Bid in the Pilot Security in Test Group Three at the time of execution or, for a stopped sell order, equal to or greater than the National Best Offer in the Pilot Security in Test Group Three at the time of execution, as long as such order is priced at an acceptable increment; [38]

n. The order is for a fractional share of a Pilot Security in Test Group Three, provided that such fractional share order was not the result of breaking an order for one or more whole shares of a Pilot Security in Test Group Three into orders for fractional shares or was not otherwise effected to evade the requirements of the Trade-at Prohibition or any other provisions of the Plan; or

o. The order is to correct a bona fide error, which is recorded by the Trading Center in its error account. [39] A bona fide error is defined as:

A. The inaccurate conveyance or execution of any term of an order including, but not limited to, price, number of shares or other unit of trading; identification of the security; identification of the account for which securities are purchased or sold; lost or

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2,000 shares in reserve, and receives a 5,000 share order to sell, the exchange would be able to execute the entire 5,000 share order without having to route to an away market at any other Protected Bid at the same price. If, however, that exchange only has 1,000 shares in reserve, the entire order would not be able to be executed on that exchange, and the exchange would only be able to execute 3,000 shares and route the rest to away markets at other Protected Bids at the same price, before executing the 1,000 shares in reserve.

[36] In connection with the definition of a Trade-at ISO proposed in Rule 4770(a)(1)(D), this exception refers to the ISO that is received by a Trading Center.

The Exchange proposed an exemption to the Trade-at Prohibition for Trade-at ISOs to clarify that an ISO that is received by a Trading Center (and which could form the basis of an execution at the price of a Protected Quotation pursuant to Section VI(D)(8) of the Plan), is identified as a Trade-at ISO. Depending on whether Rule 611 of Regulation NMS or the Trade-at requirement applies, an ISO may mean that the sender of the ISO has swept better-priced Protected Quotations, so that the recipient of that ISO may trade through the price of the Protected Quotation (Rule 611 of Regulation NMS), or it could mean that the sender of the ISO has swept Protected Quotations at the same price that it wishes to execute at (in addition to any better-priced quotations), so the recipient of that ISO may trade at the price of the Protected Quotation (Trade-at). Given that the meaning of an ISO may differ under Rule 611 of Regulation NMS and Trade-at, the Exchange proposed an exemption to the Trade-at Prohibition for Trade-at ISOs so that the recipient of an ISO in a Test Group Three security would know, upon receipt of that ISO, that the Trading Center that sent the ISO had already executed against the full size of displayed quotations at that price, *e.g.*, the recipient of that ISO could permissibly trade at the price of the Protected Quotation.

[37] In connection with the definition of a Trade-at ISO proposed in Rule 4770(a)(1)(D), this exception refers to the Trading Center that routed the ISO.

[38] The stopped order exemption in Rule 611 of Regulation NMS applies where "[t]he price of the trade-through transaction was, for a stopped buy order, lower than the national best bid in the NMS stock at the time of execution or, for a stopped sell order, higher than the national best offer in the NMS stock at the time of execution" (*see* 17 CFR 242.611(b)(9)). The Trade-at stopped order exception applies where "the price of the Trade-at transaction was, for a stopped buy order, equal to the national best bid in the Pilot Security at the time of execution or, for a stopped sell order, equal to the national best offer in the Pilot Security at the time of execution" (*see* Plan, Section VI(D)(12)).

To illustrate the application of the stopped order exemption as it currently operates under Rule 611 of Regulation NMS and as it is currently proposed for Trade-at, assume the National Best Bid is $10.00 and another protected quote is at $9.95. Under Rule 611 of Regulation NMS, a stopped order to buy can be filled at $9.95 and the firm does not have to send an ISO to access the protected quote at $10.00 since the price of the stopped order must be lower than the National Best Bid. For the stopped order to also be executed at $9.95 and satisfy the Trade-at requirements, the Trade-at exception would have to be revised to allow an order to execute at the price of a protected quote which, in this case, could be $9.95.

Based on the fact that a stopped order would be treated differently under the Rule 611 of Regulation NMS exception than under the Trade-at exception in the Plan, the Exchange believes that it is appropriate to amend the Trade-at stopped order exception in the Plan to ensure that the application of this exception would produce a consistent result under both Regulation NMS and the Plan. Therefore, the Exchange proposes in this proposed Rule 4770(c)(3)(D)(iii)m. to allow a transaction to satisfy the Trade-at requirement if the stopped order price, for a stopped buy order, is equal to or less than the National Best Bid, and for a stopped sell order, is equal to or greater than the National Best Offer, as long as such order is priced at an acceptable increment. The Commission granted New York Stock Exchange LLC an exemption from Rule 608(c) related to this provision. *See* Exemption Letter, *supra* note 23. The Exchange is seeking the same exemptions as requested in the Exemption Request Letters.

[39] The exceptions to the Trade-at requirement set forth in the Plan and in the Exchange's proposed Rule 4770(c)(3)(D)(iii) are, in part, based on the exceptions to the trade-through requirement set forth in Rule 611 of Regulation NMS, including exceptions for an order that is executed as part of a transaction that was not a "regular way" contract, and an order that is executed as part of a single-priced opening, reopening, or closing transaction by the Trading Center (*see* 17 CFR 242.611(b)(2) and (b)(3)). Following the adoption of Rule 611 of Regulation NMS and its exceptions, the Commission issued exemptive relief that created exceptions from Rule 611 of Regulation NMS for certain error correction transactions. *See* Securities Exchange Act Release No. 55884 (June 8, 2007), 72 FR 32926 (June 14, 2007); Securities Exchange Act Release No. 55883 (June 8, 2007), 72 FR 32927 (June 14, 2007). The Exchange has determined that it is appropriate to incorporate this additional exception to the Trade-at Prohibition, as this exception is equally applicable in the Trade-at context.

Accordingly, the Exchange is proposing to exempt certain transactions to correct bona fide errors in the execution of customer orders from the Trade-at Prohibition, subject to the conditions set forth by the SEC's order exempting these transactions from Rule 611 of Regulation NMS. The Commission granted New York Stock Exchange LLC an exemption from Rule 608(c) related to this provision. *See* Exemption Letter, *supra* note 23. The Exchange is seeking the same exemptions as requested in the Exemption Request Letters.

As with the corresponding exception under Rule 611 of Regulation NMS, the bona fide error would have to be evidenced by objective facts and circumstances, the Trading Center would have to maintain documentation of such facts and circumstances and record the transaction in its error account. To avail itself of the exemption, the Trading Center would have to establish, maintain, and enforce written policies and procedures reasonably designed to address the occurrence of errors and, in the event of an error, the use and terms of a transaction to correct the error in compliance with this exemption. Finally, the Trading Center would have to regularly surveil to ascertain the effectiveness of its policies and procedures to address errors and transactions to correct errors and take prompt action to remedy deficiencies in such policies and procedures. *See* Securities Exchange Act Release No. 55884 (June 8, 2007), 72 FR 32926 (June 14, 2007).

otherwise misplaced order tickets; short sales that were instead sold long or vice versa; or the execution of an order on the wrong side of a market;

B. The unauthorized or unintended purchase, sale, or allocation of securities, or the failure to follow specific client instructions;

C. The incorrect entry of data into relevant systems, including reliance on incorrect cash positions, withdrawals, or securities positions reflected in an account; or

D. A delay, outage, or failure of a communication system used to transmit market data prices or to facilitate the delivery or execution of an order.

Finally, Proposed Rule 4770(c)(3)(D)(iv) would prevent members from breaking an order into smaller orders or otherwise effecting or executing an order to evade the requirements of the Trade-at Prohibition or any other provisions of the Plan.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[40] in general, and furthers the objectives of Section 6(b)(5) of the Act,[41] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposed rule change is consistent with the Act because it ensures that the Exchange and its members would be in compliance with a Plan approved by the Commission pursuant to an order issued by the Commission in reliance on Section 11A of the Act.[42] Such approved Plan gives the Exchange authority to establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with applicable quoting and trading requirements specified in the Plan. The Exchange believes that the proposed rule change is consistent with the authority granted to it by the Plan to establish specifications and procedures for the implementation and operation of the Plan that are consistent with the provisions of the Plan. Likewise, the Exchange believes that the proposed rule change provides interpretations of the Plan that are consistent with the Act, in general, and furthers the objectives of the Act, in particular.

Furthermore, the Exchange is a Participant under the Plan and subject, itself, to the provisions of the Plan. The proposed rule change ensures that the Exchange's systems would not display or execute trading interests outside the requirements specified in such Plan. The proposal would also help allow market participants to continue to trade NMS Stocks within quoting and trading requirements that are in compliance with the Plan, with certainty on how certain orders and trading interests would be treated. This, in turn, will help encourage market participants to continue to provide liquidity in the marketplace.

Because the Plan supports further examination and analysis on the impact of tick sizes on the trading and liquidity of the securities of small capitalization companies, and the Commission believes that altering tick sizes could result in significant market-wide benefits and improvements to liquidity and capital formation, adopting rules that enforce compliance by its members with the provisions of the Plan would help promote liquidity in the marketplace and perfect the mechanism of a free and open market and national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes are being made to establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with the trading and quoting requirements specified in the Plan, of which other equities exchanges are also Participants. Other competing national securities exchanges are subject to the same trading and quoting requirements specified in the Plan. Therefore, the proposed changes would not impose any burden on competition, while providing certainty of treatment and execution of trading interests on the Exchange to market participants in NMS Stocks that are acting in compliance with the requirements specified in the Plan.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[43] and subparagraph (f)(6) of Rule 19b–4 thereunder.[44]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BX–2016–039 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2016–039. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/*

[40] 15 U.S.C. 78f(b).

[41] 15 U.S.C. 78f(b)(5).

[42] 15 U.S.C. 78k–1.

[43] 15 U.S.C. 78s(b)(3)(a)(iii).

[44] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

rules/sro.shtml). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2016–039, and should be submitted on or before August 3, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[45]

Brent J. Fields,

Secretary.

[FR Doc. 2016–16492 Filed 7–12–16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78243; File No. SR–BOX–2016–28]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing of Proposed Rule Change To Expand the Short Term Option Series Program To Allow Wednesday Expirations for SPY Options

July 7, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 30, 2016, BOX Options Exchange LLC (the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend IM–5050–6 to Rule 5050 to allow the listing and trading of options with Wednesday expirations. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://boxexchange.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to expand the Short Term Option Series Program outlined in IM–5050–6 to Rule 5050 to allow the listing and trading of options with Wednesday expirations.

Currently, under the Short Term Option Series Program, which was initiated in 2010,[3] the Exchange may open for trading on any Thursday or Friday that is a business day series of options on that class that expire on each of the next five Fridays, provided that such Friday is not a Friday in which monthly options series or Quarterly Options Series expire ("Short Term Option Series"). The Exchange is now proposing to amend its rule to permit the listing of options expiring on Wednesdays. Specifically, BOX is proposing that it may open for trading on any Tuesday or Wednesday that is a business day, series of options on the SPDR S&P 500 ETF Trust (SPY) to expire on any Wednesday of the month that is a business day and is not a Wednesday in which Quarterly Options Series expire ("Wednesday SPY Expirations").[4] The proposed Wednesday SPY Expiration series will be similar to the current Short Term Option Series, with certain exceptions, as explained in greater detail below. The Exchange notes that having Wednesday expirations is not a novel proposal. Specifically, the Chicago Board Options Exchange, Incorporated ("CBOE") recently received approval to list Wednesday expirations for broad-based indexes.[5]

In regards to Wednesday SPY Expirations, the Exchange is proposing to remove the current restriction preventing BOX from listing Short Term Option Series that expire in the same week in which monthly option series in the same class expire. Specifically, the Exchange will be allowed to list Wednesday SPY Expirations in the same week in which monthly option series in SPY expire. The current restriction to prohibit the expiration of monthly and Short Term Option Series from expiring on the same trading day is reasonable to avoid investor confusion. This confusion will not apply with Wednesday SPY Expirations and standard monthly options because they will not expire on the same trading day, as standard monthly options do not expire on Wednesdays. Additionally, it would lead to investor confusion if Wednesday SPY Expirations were not listed for one week every month because there was a monthly SPY expiration on the Friday of that week.

Under the proposed Wednesday SPY Expirations, BOX may list up to five consecutive Wednesday SPY Expirations at one time. The Exchange may have no more than a total of five Wednesday SPY Expirations listed. This is the same listing procedure as Short Term Option Series that expire on Fridays. The Exchange is also proposing to clarify that the five series limit in the current Short Term Option Series Program Rule will not include any Wednesday SPY Expirations.[6] This means, under the proposal, the Exchange would be allowed to list five Short Term Option Series expirations for SPY expiring on Friday under the current rule and five Wednesday SPY Expirations. The interval between strike prices for the proposed Wednesday SPY Expirations will be the same as those for the current Short Term Option Series. Specifically, the Wednesday SPY

[45] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 62505 (July 15, 2010), 75 FR 42792 (July 22, 2010) (Notice of Filing and Immediate Effectiveness of SR–BX–2010–047).

[4] *See* Proposed IM–5050–6(c) to Rule 5050.

[5] *See* Securities Exchange Act Release No. 76909 (January 14, 2016), 81 FR 3512 (January 21, 2016) (Order Approving SR–CBOE–2015–106).

[6] *See* proposed changes to IM–5050–6(a) to Rule 5050.

Expirations will have $0.50 strike intervals.

Currently, for each Short Term Option Expiration Date,[7] the Exchange is limited to opening thirty (30) series for each expiration date for the specific class. The thirty (30) series restriction does not include series that are open by other securities exchanges under their respective short term option rules; BOX may list these additional series that are listed by other exchanges.[8] The thirty (30) series restriction shall apply to Wednesday SPY Expiration series as well. In addition, the Exchange will be able to list series that are listed by other exchanges, assuming they file similar rules with the Commission to list SPY options expiring on Wednesdays.

As is the case with current Short Term Option Series, the Wednesday SPY Expiration series will be P.M.-settled. The Exchange does not believe that any market disruptions will be encountered with the introduction of P.M.-settled Wednesday SPY Expirations. The Exchange currently trades P.M.-settled Short Term Option Series that expire almost every Friday, which provide market participants a tool to hedge special events and to reduce the premium cost of buying protection. The Exchange seeks to introduce Wednesday SPY Expirations to, among other things, expand hedging tools available to market participants and to continue the reduction of the premium cost of buying protection. The Exchange believes that Wednesday expirations, similar to Friday expirations, would allow market participants to purchase an option based on their timing as needed and allow them to tailor their investment and hedging needs more effectively.

The Exchange is also amending the definition of Short Term Option Series to make clear that it includes Wednesday expirations. Specifically, the Exchange is amending the definition to expand Short Term Option Series to those listed on any Tuesday or Wednesday and that expire on the Wednesday of the next business week. If a Tuesday or Wednesday is not a business day, the series may be opened (or shall expire) on the first business day immediately prior to that Tuesday or Wednesday.

The Exchange believes that the introduction of Wednesday SPY Expirations will provide investors with a flexible and valuable tool to manage risk exposure, minimize capital outlays, and be more responsive to the timing of events affecting the industry.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Securities Exchange Act of 1934 (the "Act"),[9] in general, and Section 6(b)(5) of the Act,[10] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

In particular, the Exchange believes the Short Term Option Series Program has been successful to date and that Wednesday SPY Expirations simply expand the ability of investors to hedge risk against market movements stemming from economic releases or market events that occur throughout the month in the same way that the Short Term Option Series Program has expanded the landscape of hedging. Similarly, the Exchange believes Wednesday SPY Expirations should create greater trading and hedging opportunities and flexibility, and provide customers with the ability to more closely tailor their investment objectives. The Exchange believes that allowing Wednesday SPY Expirations and monthly SPY expirations in the same week will benefit investors and minimize investor confusion by providing Wednesday SPY Expirations in a continuous and uniform manner.

Finally, the Exchange represents that it has an adequate surveillance program in place to detect manipulative trading in Wednesday SPY Expirations in the same way it monitors trading in the current Short Term Option Series. The Exchange also represents that it has the necessary systems capacity to support the new options series.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that having Wednesday expirations is not a novel proposal.[11] The Exchange does not believe the proposal will impose any burden on intramarket competition, as all market participants will be treated in the same manner as existing Short Term Option Series. Additionally, the Exchange does not believe the proposal will impose any burden on intermarket competition, as nothing prevents the other options exchanges from proposing similar rules to those that the Exchange is currently proposing.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Actio

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BOX–2016–28 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BOX–2016–28. This file number should be included on the subject line if email is used. To help the

[7] BOX may open for trading on any Thursday or Friday that is a business day series of options on that class that expire on each of the next five Fridays that are business days and are not Fridays in which monthly options series or Quarterly Options Series expire ("Short Term Option Expiration Dates"). *See* IM–5050–6(a).

[8] *See* IM–5050–6(b)(1) to Rule 5050.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] *See supra*, note 5.

Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2016–28 and should be submitted on or before August 3, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Brent J. Fields,

Secretary.

[FR Doc. 2016–16484 Filed 7–12–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78247; File No. SR–BOX–2016–31]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend IM–3120–2 to Rule 3120 To Extend the Pilot Program That Eliminated the Position Limits for Options on SPDR S&P 500 ETF ("SPY") ("SPY Pilot Program")

July 7, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 6, 2016, BOX Options Exchange LLC (the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend IM–3120–2 to Rule 3120 to extend the pilot program that eliminated the position limits for options on SPDR S&P 500 ETF ("SPY") ("SPY Pilot Program"). The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://boxexchange.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend IM–3120–2 to Rule 3120 to extend the time period of the SPY Pilot Program,[3] which is currently scheduled to expire on July 12, 2016, through July 12, 2017.[4]

This filing does not propose any substantive changes to the SPY Pilot Program. In proposing to extend the SPY Pilot Program, the Exchange reaffirms its consideration of several factors that supported the original proposal of the SPY Pilot Program, including (1) the availability of economically equivalent products and their respective position limits, (2) the liquidity of the option and the underlying security, (3) the market capitalization of the underlying security and the related index, (4) the reporting of large positions and requirements surrounding margin, and (5) the potential for market on close volatility.

In the proposal to extend the SPY Pilot Program, the Exchange stated that if it were to propose an extension, permanent approval or termination of the program, the Exchange would submit, along with any filing proposing such amendments to the program, a report providing an analysis of the SPY Pilot Program covering the period since the previous extension (the "Pilot Report").[5] Accordingly, the Exchange is submitting the Pilot Report detailing the Exchange's experience with the SPY Pilot Program. The Pilot Report is attached as Exhibit 3 to this filing. The Exchange notes that it is unaware of any problems created by the SPY Pilot Program and does not foresee any as a result of the proposed extension. In extending the SPY Pilot Program, the Exchange states that if it were to propose another extension, permanent approval or termination of the program, the Exchange will submit another Pilot Report covering the period since the previous extension, which will be submitted at least 30 days before the end of the proposed extension. If the SPY Pilot Program is not extended or adopted on a permanent basis by July 12, 2017, position limits in SPY will revert to their Pre-Pilot levels. Extending the SPY Pilot Program will give the Exchange and Commission additional time to evaluate the pilot and its effect on the market.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act, in general, and Section 6(b)(5) of the Act, in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that extending the SPY Pilot Program promotes just and equitable principles of trade by permitting market participants, including market makers, institutional investors and retail investors, to establish greater positions when pursuing their investment goals and needs.

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 67936 (September 27, 2012), 77 FR 60491 (October 3, 2012) (Notice of Filing and Immediate Effectiveness of SR–BOX–2012–013).

[4] *See* Securities Exchange Act Release No. 75410 (July 9, 2015), 80 FR 41540 (July 15, 2015) (Notice of Filing and Immediate Effectiveness of SR–BOX–2015–25).

[5] *Id.*

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any aspect of competition, whether between the Exchange and its competitors, or among market participants. Instead, the proposed rule change is designed to allow the SPY Pilot Program to continue without interruption. Additionally, the Exchange expects other SROs will propose similar extensions.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[6]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[7] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[8] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange believes that waiver of the operative delay is consistent with the protection of investors and the public interest because it will allow the SPY Pilot Program to continue without interruption. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[9]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BOX–2016–31 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BOX–2016–31. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2016–31, and should be submitted on or before August 3, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Brent J. Fields,

Secretary.

[FR Doc. 2016–16488 Filed 7–12–16; 8:45 am]

BILLING CODE 8011–01–P

[6] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[7] 17 CFR 240.19b–4(f)(6).

[8] 17 CFR 240.19b–4(f)(6)(iii).

[9] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78239; File No. SR–NYSEArca–2016–15]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 1, To Amend Rule 6.67(c) by Revising the Clearing Member Requirement for Entering an Order Into the Electronic Order Capture System

July 7, 2016.

I. Introduction

On March 22, 2016, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Rule 6.67(c) to change the timing for recording the name of the Clearing Member[3] in the Electronic Order Capture system ("EOC"). On March 29, 2016,[4] the Exchange filed

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Rule 6.1(b)(3) defines "Clearing Member" as an Exchange OTP which has been admitted to membership in the Options Clearing Corporation pursuant to the provisions of the Rules of the Options Clearing Corporation.

[4] The Commission notes that the amendment date of March 30, 2016 in the SR–NYSEArca–2016–15

Continued

Amendment No. 1 to the proposed rule change. The Commission published the proposed rule change, as modified by Amendment No. 1, for comment in the **Federal Register** on April 11, 2016.[5] The Commission received no comments on the proposed rule change. On May 25, 2016 the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change to July 10, 2016.[6] The Commission did not receive any comments on the proposed rule change. This order institutes proceedings under section 19(b)(2)(B) of the Act[7] to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1 thereto.

II. Description of the Proposal, as Modified by Amendment No. 1

The Exchange proposes to amend Rule 6.67(c) by revising the timing for an OTP holder to record the name of the Clearing Member in the EOC.[8] In 2000, the Commission issued an order, which required the Exchange, in coordination with other exchanges, to "design and implement a consolidated options audit trail system ('COATS')," that would "enable the options exchanges to reconstruct markets promptly, effectively surveil them and enforce order handling, firm quote, trade reporting and other rules."[9] The Commission Order requires the Exchange to incorporate into the audit trail all non-electronic orders "such that the audit trail provides an accurate, time-sequenced record of electronic and other orders, quotations and transactions on such respondent exchange, beginning with the receipt of an order by such respondent exchange and further documenting the life of the order through the process of execution, partial execution, or cancellation of that order, which audit trail shall be readily retrievable in the common computer format."[10] To comply with the Commission Order, the Exchange developed the EOC system for OTP holders.[11]

The EOC is the Exchange's floor-based electronic audit trail and order tracking system that provides an accurate time-sequenced record of all orders and transactions represented on the Exchange's trading floor.[12] Rule 6.67(c) sets forth the EOC entry requirements and requires every OTP holder that receives an order for execution on the Exchange to "immediately, prior to representation in the trading crowd, record the details of the order (including any modification of the terms of the order or cancellation of the order) into the EOC, unless such order has been entered into the Exchange's other electronic order processing facilities."[13] The pre-trade EOC requirements under current Rule 6.67(c)(1) include "the name of the clearing OTP Holder."[14] Rule 6.67(c)(1) further states that "[t]he remaining elements prescribed in Rule 6.68(a) and any additional information with respect to the order shall be recorded as the events occur and/or during trade reporting procedures which may occur after the representation and execution of the order."[15]

The Exchange proposes to amend Rule 6.67(c)(1) to allow an OTP Holder to record the name of the Clearing Member in the EOC "as the events occur and/or during trade reporting procedures" rather than prior to representation of the order in the trading crowd.[16] The Exchange states that because the identity of the firm through which each trade will clear is not always initially provided when an order is presented, Floor Brokers waiting to receive this information and enter it into the EOC are delayed in representing and executing an order.[17] The Exchange represents that the proposal would amend only the timing for the recording of the Clearing Member in the EOC while still maintaining the requirement to record the Clearing Member in the EOC for audit trail purposes.[18] According to the Exchange, Floor Brokers would continue to be required to maintain proper order records, as part of each trade record, including the identity of the clearing OTP Holder, and would continue to be required to give up the responsible Clearing Member on each trade as part of each trade record.[19]

III. Proceedings To Determine Whether To Approve or Disapprove SR–NYSEArca–2016–15 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to section 19(b)(2)(B) of the Act[20] to determine whether the proposed rule change should be approved or disapproved. Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change, as discussed below. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described in greater detail below, the Commission seeks and encourages interested persons to provide additional comment on the proposed rule change.

Pursuant to section 19(b)(2)(B) of the Act, the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings because the proposal raises important issues that warrant further public comment and Commission consideration. Specifically, the Commission is instituting proceedings to allow for additional analysis of, and input from commenters with respect to, the proposed rule change's consistency with section 6(b)(5) of the Act,[21] which requires that the rules of a national securities exchange be designed, among other things, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and

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Notice is incorrect and the proper date is March 29, 2016.

[5] *See* Securities Exchange Act Release No. 34–77516 (April 5, 2016), 81 FR 21430 ("Notice"). Amendment No.1 was included in the Notice and provided the clarification that the CMTA Information and the name of the clearing OTP Holder would be entered into the EOC "as the events occur and/or during trade reporting procedures which may occur after the representation and execution of the order."

[6] *See* Securities Exchange Act Release No. 34–77909 (May 25, 2016), 81 FR 35079 (June 1, 2016).

[7] 15 U.S.C. 78s(b)(2)(B).

[8] *See* Notice, *supra* note 5, 81 FR at 21431.

[9] *See* Section IV.B.e.(v) of the Commission's Order Instituting Public Administrative Proceedings Pursuant to sections 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions ("Commission Order"), Securities Exchange Act Release No. 43268 (September 11, 2000) and Administrative Proceeding File No. 3–10282.

[10] *See id.*

[11] *See* Notice, *supra* note 5, 81 FR at 21431.

[12] *See id.; see also* Rule 6.67(c).

[13] *See* Rule 6.67(c).

[14] *See* Rule 6.67(c)(1)(vii).

[15] *See* Rule 6.67(c)(1); *see also* Rule 6.68(a) (Record of Orders) (requiring that OTP Holders and OTP Firms maintain a record of each order that includes that the following data elements: (1) CMTA Information and the name of the clearing OTP Holder or Firm; (2) options symbol, expiration month, exercise price and type of options; (3) side of the market and order type; (4) quantity of options; (5) limit or stop price or special conditions; (6) opening or closing transaction; (7) time in force; (8) account origin code; and (9) whether the order was solicited or unsolicited).

[16] *See* Notice, *supra* note 5, 81 FR at 21431.

[17] *See id.*

[18] *See id.*

[19] *See id.* at 21431–32; *see also* Rule 6.68(a).

[20] 15 U.S.C. 78s(b)(2)(B). Section 19(b)(2)(B) of the Act also provides that proceedings to determine whether to disapprove a proposed rule change must be concluded within 180 days of the date of publication of notice of the filing of the proposed rule change. *See id.* The time for conclusion of the proceedings may be extended for up to 60 days if the Commission finds good cause for such extension and publishes its reasons for so finding. *See id.*

[21] 15 U.S.C. 78f(b)(5).

open market and a national market system and, in general, to protect investors and the public interest.

Under the Exchange's current rules, a floor broker must record the name of the Clearing Member in the EOC prior to representing an order on the floor. As discussed above,[22] the Exchange developed the EOC and created the pre-trade Clearing Member requirement in response to the Commission Order. The Exchange justifies the proposed elimination of the pre-trade clearing requirement by stating that "Floor Brokers have told the Exchange that the identity of the firm through which each trade will clear is not always initially provided when an order is presented and that waiting to receive this information and enter it into EOC can delay the representation and execution of an order. In today's trading environment of rapidly moving markets and the need to execute an order and hedge a trade in real or near real time, even a slight delay can prove to be detrimental to the handling of an order." [23] The Exchange further states that the "proposed change to eliminate the Give Up Requirement prior to execution of each trade would not impair the Exchange's ability to comply with the [Commission] Order. Specifically, the EOC would still provide an accurate, time-sequenced record beginning with the receipt of an order and document the life of the order through the process of execution, partial execution, or cancellation. Entry of information pursuant to the Give Up Requirement would occur after the order had been represented and executed in the Trading Crowd. Thus, only the timing of the disclosure of such information would be affected by this proposal." [24]

The Exchange, however, does not explain why the identity of the Clearing Member may not be provided when an order is presented to a Floor Broker, how frequently this occurs, or why it is burdensome to identify the Clearing Member in advance. As a result, the Exchange does not appear to offer a credible justification for proposing to incur the risk of delaying the recording of this important information into the EOC. The Commission accordingly believes the proposal, as modified by Amendment No. 1, raises questions as to whether it consistent with the requirements of section 6(b)(5) of the Act, including whether the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data and arguments with respect to the concerns identified above, as well as any other concerns they may have with the proposed rule change. In particular, the Commission invites the written views of interested persons concerning whether the proposal, as modified by Amendment No. 1, is consistent with sections 6(b)(5) [25] or any other provision of the Act, or the rules and regulations thereunder. Although there does not appear to be any issue relevant to approval or disapproval which would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4 under the Act,[26] any request for an opportunity to make an oral presentation.[27] Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or disapproved by August 3, 2016. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by August 17, 2016. In light of the concerns raised by the proposed rule change, as discussed above, the Commission invites additional comment on the proposed rule change as the Commission continues its analysis of the proposed rule change's consistency with sections 6(b)(5) and 6(b)(8),[28] or any other provision of the Act, or the rules and regulations thereunder. The Commission asks that commenters address the sufficiency and merit of the Exchange's statements in support of the proposed rule change, in addition to any other comments they may wish to submit about the proposed rule change.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File No. SR–NYSEArca–2016–15 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–NYSEArca-2016–15. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NYSEArca–2016–15, and should be submitted by August 3, 2016. Rebuttal comments should be submitted by August 17, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

Brent J. Fields,

Secretary.

[FR Doc. 2016–16480 Filed 7–12–16; 8:45 am]

BILLING CODE 8011–01–P

[22] *See supra* note 9.

[23] *See* Notice, *supra* note 5, 81 FR at 21431.

[24] *See id.*

[25] 15 U.S.C. 78f(b)(5).

[26] 17 CFR 240.19b–4.

[27] Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Public Law 94–29 (June 4, 1975), grants to the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[28] 15 U.S.C. 78f(b)(5), (b)(8).

[29] 17 CFR 200.30–3(a)(57).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14754 and #14755]

West Virginia Disaster #WV–00044

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of West Virginia (FEMA–4273–DR), dated 07/06/2016.

Incident: Severe Storms, Flooding, Landslides, and Mudslides.

Incident Period: 06/22/2016 through 06/29/2016.

Effective Date: 07/06/2016.

Physical Loan Application Deadline Date: 09/06/2016.

Economic Injury (EIDL) Loan Application Deadline Date: 04/06/2017.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 07/06/2016, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Clay, Fayette, Greenbrier, Jackson, Kanawha, Monroe, Nicholas, Pocahontas, Roane, Summers, Webster.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 147546 and for economic injury is 147556.

(Catalog of Federal Domestic Assistance Number 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2016–16534 Filed 7–12–16; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14749 and #14750]

West Virginia Disaster Number WV–00043

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 4.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of West Virginia (FEMA–4273–DR), dated 06/25/2016.

Incident: Severe Storms, Flooding, Landslides, and Mudslides.

Incident Period: 06/22/2016 through 06/29/2016.

Effective Date: 07/06/2016.

Physical Loan Application Deadline Date: 08/24/2016.

EIDL Loan Application Deadline Date: 03/27/2017.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of West Virginia, dated 06/25/2016 is hereby amended to establish the incident period for this disaster as beginning 06/22/2016 and continuing through 06/29/2016.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2016–16535 Filed 7–12–16; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2016–0028]

Privacy Act of 1974; Proposed Modified System of Records

AGENCY: Social Security Administration (SSA).

ACTION: Modified System of Records.

SUMMARY: In accordance with the Privacy Act (5 U.S.C. 552a) we are issuing public notice of our intent to modify an existing system of records entitled, Electronic Freedom of Information Act (eFOIA) System (60–0340), last published at 70 FR 3571 (January 25, 2005). This notice publishes details of the proposed updates as set forth below under the caption **SUPPLEMENTARY INFORMATION.**

DATES: We invite public comment on this new system of records. In accordance with 5 U.S.C. 552a(e)(4) and (e)(11), the public is given a 30-day period in which to submit comments. Therefore, please submit any comments by August 12, 2016.

ADDRESSES: The public, Office of Management and Budget (OMB), and Congress may comment on this publication by writing to the Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, Social Security Administration, Room 617 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, or through the Federal e-Rulemaking Portal at *http://www.regulations.gov.* All comments we receive will be available for public inspection at the above address and we will post them to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Tristin Dorsey, Government Information Specialist, Privacy Implementation Division, Office of Privacy and Disclosure, Office of the General Counsel, Social Security Administration, Room 617 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, telephone: (410) 965–2950, email: *tristin.dorsey@ssa.gov.*

SUPPLEMENTARY INFORMATION: We are modifying the system of records name from eFOIA System, SSA, Office of the General Counsel, Office of Public Disclosure to the Freedom of Information Act (FOIA) and Privacy Act Record Request and Appeal System to accurately reflect the system name, hereinafter referred to as the *FOIA and Privacy Act Record Request and Appeal System.* We are also modifying the notice throughout to correct miscellaneous stylistic formatting errors

of the previously published Notice, and to ensure the language reads consistently across multiple systems.

We are modifying the system of records location by clarifying the name of the office, specifying that paper records are included in the categories of records in the system, explaining how the records are retrieved, revising the language in routine use No. 3 to remove erroneously placed language concerning the disclosure of tax return information, deleting previous routine uses Nos. 4 and 10 which are no longer applicable, and adding a new routine use to clarify that records may be provided to the National Archives and Records Administration, Office of Government Information Services, for all purposes set forth in 5 U.S.C. 552(h)(2)(A–B) and (3). The entire notice is being republished for ease of reference.

In accordance with 5 U.S.C. 552a(r), we have provided a report to OMB and Congress on this modified system of records.

Dated: June 14, 2016.

Glenn Sklar,

Acting Executive Director, Office of Privacy and Disclosure, Office of the General Counsel.

SOCIAL SECURITY ADMINISTRATION

SYSTEM NUMBER: 60–0340

SYSTEM NAME:

Freedom of Information Act (FOIA) and Privacy Act Record Request and Appeal System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Social Security Administration, Office of the General Counsel, Office of Privacy and Disclosure, 6401 Security Boulevard, Baltimore, Maryland 21235–6401.

Social Security Administration, Office of Central Operations, Division of Earnings Records Operations, 6100 Wabash Avenue, Baltimore, Maryland 21290–3022; or regional offices in receipt of original requests (See Appendix C for address information).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system maintains information about individuals who submit FOIA or Privacy Act requests, including Privacy Act amendments, or administrative appeals to SSA; individuals whose requests or records have been referred to SSA by other agencies; individuals who submit inquiries to SSA regarding federal agency compliance with the FOIA; attorneys representing individuals submitting such requests and appeals; and individuals who are the subject of such requests and appeals; and SSA personnel assigned to handle such requests and appeals.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of records received, created, or compiled in response to FOIA and Privacy Act requests or administrative appeals, including: the original requests and administrative appeals; responses to such requests and administrative appeals; all related memoranda, correspondence, notes, and other related or supporting documentation; and, copies of requested records relating to original requests and administrative appeals. This system also consists of records related to inquiries submitted to SSA regarding federal agency compliance with the FOIA, and all records related to the resolution of such inquiries.

AUTHORITIES FOR MAINTENANCE OF THE SYSTEM:

The system was established and is maintained to implement the provisions of the Freedom of Information Act (5 U.S.C. 552), Privacy Act (5 U.S.C. 552a), Records Management by Federal Agencies (44 U.S.C. 3101), Section 1106 of the Social Security Act (42 U.S.C. 1306), and SSA Regulations (20 CFR parts 401 and 402).

PURPOSE(S):

This system of records assists us in processing access requests and administrative appeals under the FOIA and the Privacy Act; supporting agency participation in litigation arising from requests and appeals; assigning, processing, and tracking FOIA workloads; and, providing management information reports.

ROUTINE USES OF RECORDS COVERED BY THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

We will disclose records pursuant to the following routine uses; however, we will not disclose any information defined as "return or return information" under 26 U.S.C. 6103 of the Internal Revenue Code (IRC), unless authorized by a statute, the Internal Revenue Service (IRS), or IRS regulations.

1. To the Office of the President in response to an inquiry from that office made on behalf of, and at the request of, the subject of record or a third party acting on the subject's behalf.

2. To a congressional office in response to an inquiry from that office made on behalf of, and at the request of, the subject of the record or a third party acting on the subject's behalf.

3. To the IRS, Department of Treasury, for the purpose of auditing SSA's compliance with the safeguard provisions of the IRC of 1986, as amended.

4. To the Department of Justice (DOJ), a court or other tribunal, or another party before such court or tribunal, when

(a) SSA, or any component thereof; or

(b) any SSA employee in his/her official capacity; or

(c) any SSA employee in his/her individual capacity where DOJ (or SSA where it is authorized to do so) has agreed to represent the employee; or

(d) the United States or any agency thereof where SSA determines the litigation is likely to affect SSA or any of its components, is a party to the litigation or has an interest in such litigation, and SSA determines that the use of such records by DOJ, a court or other tribunal, or another party before the tribunal is relevant and necessary to the litigation, provided, however, that in each case, the agency determines that disclosure of the records to DOJ, court or other tribunal, or another party is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

5. To the National Archives and Records Administration (NARA) under 44 U.S.C. 2904 and 2906.

6. To student volunteers, individuals working under a personal services contract, and other workers who technically do not have the status of Federal employees, when they are performing work for SSA, as authorized by law, and they need access to personally identifiable information (PII) in SSA records in order to perform their assigned agency functions.

7. To Federal, State and local law enforcement agencies and private security contractors, as appropriate, information necessary:

(a) To enable them to protect the safety of SSA employees and customers, the security of the SSA workplace, and the operation of SSA facilities; or

(b) to assist investigations or prosecutions with respect to activities that affect such safety and security or activities that disrupt the operation of SSA facilities.

8. To contractors and other Federal agencies, as necessary, for the purpose of assisting SSA in the efficient administration of its programs. We will disclose information under this routine use only in situations in which SSA may enter into a contractual or similar agreement with a third party to assist in accomplishing an agency function relating to this system of records.

9. To appropriate Federal, State, and local agencies, entities, and persons when:

(a) We suspect or confirm that the security or confidentiality of information in this system of records has been compromised;

(b) we determine that, as a result of the suspected or confirmed compromise, there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and

(c) we determine that disclosing the information to such agencies, entities, and persons is necessary to assist in our efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

10. To NARA, Office of Government Information Services (OGIS), to the extent necessary to fulfill its responsibilities in 5 U.S.C. 552(h) to review administrative agency policies, procedures and compliance with the FOIA, and to facilitate OGIS' offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

We will maintain records in this system in paper and in electronic form.

RETRIEVABILITY:

We will retrieve records in this system by the name and Social Security number (SSN) of the requester or appellant; case number assigned to the request or appeal; name of attorney representing the requester or appellant; the name of an individual who is the subject of such a request or appeal; or subject matter.

SAFEGUARDS:

We retain electronic records with personal identifiers in secure storage areas accessible only by our authorized employees and contractors who have a need for the information when performing their official duties. Security measures include the use of access codes and profiles, personal identification number (PIN) and password, and personal identification verification (PIV) cards. We keep paper records in cabinets within secure areas, with access limited to only those employees who have an official need for access in order to perform their duties.

We annually provide our employees and contractors with appropriate security awareness training that includes reminders about the need to protect PII and the criminal penalties that apply to unauthorized access to, or disclosure of, PII (5 U.S.C. 552a(i)(1)). Furthermore, employees and contractors with access to databases maintaining PII must sign a sanctions document annually acknowledging their accountability for inappropriately accessing or disclosing such information.

RETENTION AND DISPOSAL:

We retain and dispose of records in accordance with NARA's General Records Schedule 4.2, Information Access and Protection Records (DAA–GRS–2013–0007–0002).

SYSTEM MANAGER AND ADDRESS:

Freedom of Information Officer, Social Security Administration, Office of the General Counsel, Office of Privacy and Disclosure, 6401 Security Boulevard, Baltimore, Maryland 21235–6401.

NOTIFICATION PROCEDURES:

Persons can determine if this system contains a record about them by writing to the system manager at the above address and providing their name, SSN, or other information that may be in this system of records that will identify them. Persons requesting notification by mail must include a notarized statement to us to verify their identity or must certify in the request that they are the person they claim to be and that they understand that the knowing and willful request for, or acquisition of, a record pertaining to another person under false pretenses is a criminal offense.

Persons requesting notification of records in person must provide the same information, as well as provide an identity document, preferably with a photograph, such as a driver's license. Persons lacking identification documents sufficient to establish their identity must certify in writing that they are the person they claim to be and that they understand that the knowing and willful request for, or acquisition of, a record pertaining to another person under false pretenses is a criminal offense.

Persons requesting notification by telephone must verify their identity by providing identifying information that parallels the information in the record about which they are requesting notification. If we determine that the identifying information the person provides by telephone is insufficient, we will require the person to submit a request in writing or in person. If a person requests information by telephone on behalf of another person, the subject person must be on the telephone with the requesting person and us in the same phone call. We will establish the subject person's identity (his or her name, SSN, address, date of birth, and place of birth, along with one other piece of information, such as mother's maiden name) and ask for his or her consent to provide information to the requesting person. These procedures are in accordance with our regulations (20 CFR 401.40 and 401.45).

RECORD ACCESS PROCEDURES:

Same as notification procedures. Persons must also reasonably describe the record contents they are seeking. These procedures are in accordance with our regulations (20 CFR 401.40(c)).

CONTESTING RECORD PROCEDURES:

Same as notification procedures. Persons must also reasonably identify the record, specify the information they are contesting, and state the corrective action sought and the reasons for the correction with supporting justification showing how the record is incomplete, untimely, inaccurate, or irrelevant. These procedures are in accordance with our regulations (20 CFR 401.65(a)).

RECORD SOURCE CATEGORIES:

We obtain information in this system of records primarily from the person to whom the record pertains.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE PRIVACY ACT:

None.

[FR Doc. 2016–16547 Filed 7–12–16; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2016–0035]

Capital Cost Estimating Guidance

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Request for public comment on FRA's Capital Cost Estimating Guidance.

SUMMARY: FRA invites public comment on its Capital Cost Estimating Guidance, available on FRA's Web site at *https://www.fra.dot.gov/Page/P0926.*

DATES: Submit comments on or before August 29, 2016.

ADDRESSES: All comments must make reference to the "Federal Railroad

Administration" and the title "Capital Cost Estimating Guidance." Submit comments by only one of the following methods:

Electronic Docket: Follow the instructions for submitting comments on the U.S. Government electronic docket site at *http://www.regulations.gov.*

Delivery Service or Hand Delivery: Submit two copies of comments to U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, Room W12–140 (first floor of the West Building), Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. For confirmation that the FRA has received the comments, include a self-addressed stamped postcard. Comments will be posted without change to *www.regulations.gov,* including any personal information included in a comment. Refer to the Privacy Act in the Supplementary Information section below.

FOR FURTHER INFORMATION CONTACT: Susan Herre, Transportation Industry Analyst, Office of Program Delivery, Federal Railroad Administration, (202) 631–1825.

SUPPLEMENTARY INFORMATION: FRA developed this guidance document on capital cost estimating for project sponsors and the industry as part of its continuing efforts to provide technical assistance and ensure successful project delivery. FRA's guidance emphasizes accuracy, comprehensiveness, and completeness of estimating materials, as well as credibility. These are all qualities highlighted by the U.S. Government Accountability Office (GAO) in its own capital cost estimating guidance, which describes the same primary capital cost estimating methodologies and activities as stated in this document.

FRA's guidance focuses specifically on railroad projects; it provides examples of common estimating shortfalls in railroad projects; and it defines agency-specific requirements for project sponsors regarding format and submission of cost estimate-related materials.

FRA recognizes that it is not always easy to persuade stakeholders and funders of a project's merit, or to withstand criticism for capital costs that seem "too high" and schedules that seem "too long." The pressures associated with project development and implementation can be immense. GAO recognized these pressures when it stated, "many organizations are not mature enough to acknowledge . . . cost risk realism because of the possible repercussions [and] . . . fear that the program could be canceled." With this in mind, FRA's guidance asserts that true or "non-depressed" costs can get funded, and reminds us that delivering projects "as promised" increases industry credibility.

By following FRA's guidance, project sponsors should be better able to compensate for uncertainties, unforeseen conditions, and unknowns in capital cost estimates. Such should improve estimate reliability, and enable as-built costs to land within a reasonable range of the estimates generated at every project phase. With a consistent estimating approach, project sponsors should be better able to make useful comparisons among estimates, and to evaluate their own estimates.

This guidance will be incorporated by reference into FRA's Notices of Funding Availability/Opportunity and grant and loan agreements. FRA expects project sponsors to adhere to this guidance, and the principles and methods described herein.

Privacy Act

FRA wishes to inform all interested parties that anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). Interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000, 65 FR 19477, or see *http://www.regulations.gov/#!privacyNotice* for the privacy notice of *regulations.gov.*

Issued in Washington, DC, on July 7, 2016.

Paul Nissenbaum,

Associate Administrator for Railroad Policy and Development.

[FR Doc. 2016–16544 Filed 7–12–16; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2016–0072]

Meeting Notice—Federal Interagency Committee on Emergency Medical Services (FICEMS)

AGENCY: National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation (U.S. DOT).

ACTION: Meeting notice—FICEMS.

SUMMARY: NHTSA announces a meeting of the FICEMS to be held in the Washington, DC area. This notice announces the date, time, and location of the meeting, which will be open to the public. Pre-registration is encouraged.

DATES: The meeting will be held on August 4, 2016, from 1 p.m. EDT to 3 p.m. EDT.

ADDRESSES: The meeting will be held at the Headquarters of the U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, Oklahoma City Conference Room.

FOR FURTHER INFORMATION CONTACT: Gamunu Wijetunge, U.S. Department of Transportation, Office of Emergency Medical Services, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., NPD–400, Washington, DC 20590, *gamunu.wijetunge@dot.gov,* or 202–493–2793.

SUPPLEMENTARY INFORMATION: Section 10202 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy For Users (SAFETEA–LU), Public Law 109–59, provides that the FICEMS consist of several officials from Federal agencies as well as a State emergency medical services director appointed by the Secretary of Transportation.

Registration Information: This meeting will be open to the general public; however, pre-registration is highly encouraged to comply with security procedures. Members of the public wishing to attend should register online at *http://www.cvent.com/d/2fqyqr* no later than August 2, 2016. Please note that the information collected for registration, including full name, place of business, telephone number and email address, will be used solely for the purposes of providing registrants with access to the meeting site and to provide meeting materials to registrants via email when they become available.

A picture I.D. must be provided to enter the U.S. DOT Headquarters Building. It is suggested that visitors arrive 30 minutes early in order to facilitate entry. Attendees who are not United States citizens must produce a valid passport to enter the building. Please be aware that visitors to the U.S. DOT Headquarters Building are subject to search and must pass through a magnetometer. Weapons of any kind are strictly forbidden in the building unless authorized through the performance of the official duties of your employment (*i.e.,* law enforcement officer). Federal staff will be in the lobby beginning at 12 p.m. EDT on the day of the meeting to

escort members of the public to the meeting room.

Tentative Agenda: This meeting of the FICEMS will focus on addressing the requirements of SAFETEA–LU and the opportunities for collaboration among the key Federal agencies involved in emergency medical services. The tentative agenda includes:

- Technical Working Group (TWG) Committee Reports
- Strategic Planning Implementation Update
- EMS Data Standards and Exchange Committee Updates
- Preparedness Committee Updates
  - ACTION: Draft FICEMS interagency process for rapid coordination on health emergencies
  - Model Uniform Core Criteria for Mass Casualty Incident Triage (MUCC) Instructional Guidelines Pilot Update
- Evidence-based Practice and Quality Committee Updates
- Workforce and Veterans Credentialing Committee Updates
  - ACTION: Draft statement on responder mental health
- Safety Committee Updates
  - Update on EMS Safety and Health Safety Surveillance
- Update on the Revision of the EMS Agenda for the Future
- Opioid Overdose Epidemic Update
- Other Emerging Issues in EMS from Federal Agencies and Agency Updates
- A public comment period

There will not be a call-in number provided for this FICEMS meeting; however, minutes of the meeting will be available to the public online at *www.EMS.gov.* A final agenda and other meeting materials will be posted at *http://www.ems.gov/ficems.html* prior to the meeting.

Issued on: July 7, 2016.

Jeffrey P. Michael,

Associate Administrator, Research and Program Development.

[FR Doc. 2016–16566 Filed 7–12–16; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

[Docket ID OCC–2013–0014]

FEDERAL RESERVE SYSTEM

[Docket No. OP–1465]

FEDERAL DEPOSIT INSURANCE CORPORATION

BUREAU OF CONSUMER FINANCIAL PROTECTION

SECURITIES AND EXCHANGE COMMISSION

NATIONAL CREDIT UNION ADMINISTRATION

Announcement of Office of Management and Budget's Approval of Collection of Information Contained in "Final Interagency Policy Statement Establishing Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies."

AGENCY: Office of the Comptroller of the Currency (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); Bureau of Consumer Financial Protection (CFPB); Securities and Exchange Commission (SEC); and National Credit Union Administration (NCUA).

ACTION: Notice; Joint Announcement of Office of Management and Budget's (OMB) approval of a collection of information.

SUMMARY: The OCC, Board, FDIC, CFPB, SEC, and NCUA (each, an Agency and collectively, the Agencies) announce that OMB has approved the collection of information contained in the Final Interagency Policy Statement Establishing Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies (Policy Statement). Regulated entities may now begin to submit self-assessments of their diversity policies and practices to the OMWI Director of their primary federal financial regulator.

FOR FURTHER INFORMATION CONTACT:

OCC: Joyce Cofield, Executive Director, Office of Minority and Women Inclusion, at (202) 649–6460 or Karen McSweeney, Counsel, Law Department, at (202) 649–6295, or, for persons who are deaf or hard of hearing, TDD/TTY (202) 649–5597, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

BOARD: Sheila Clark, Director, Office of Diversity and Inclusion, at (202) 452–2883, Katherine Wheatley, Associate General Counsel, Legal Division, at (202) 452–3779, or Alye Foster, Senior Special Counsel, Legal Division, at (202) 452–5289.

FDIC: Melodee Brooks, Senior Deputy Director, Office of Minority and Women Inclusion, (703) 562–6090; or Robert Lee, Counsel, Legal Division, (703) 562–2020, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429–0002.

CFPB: Stuart Ishimaru, Director, Office of Minority and Women Inclusion, at (202) 435–9012, or Stephen VanMeter, Deputy General Counsel, Legal Division at (202) 435–7319, Bureau of Consumer Financial Protection, 1700 G Street NW., Washington, DC 20552.

SEC: Pamela A. Gibbs, Director, Office of Minority and Women Inclusion, (202) 551–6046, or Audrey B. Little, Senior Counsel, Office of Minority and Women Inclusion, (202) 551–6086, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

NCUA: Monica Davy, Director, Office of Minority and Women Inclusion, (703) 518–1650, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314.

SUPPLEMENTARY INFORMATION: Section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Act) required the OCC, Board, FDIC, CFPB, SEC, and NCUA each to establish an Office of Minority and Women Inclusion (OMWI) to be responsible for all matters of the Agency relating to diversity in management, employment, and business activities. The Act also instructed each OMWI Director to develop standards for assessing the diversity policies and practices of entities regulated by the Agency. The Agencies worked together to develop joint standards (Joint Standards) and, on June 10, 2015, they jointly published in the **Federal Register** [1] the "Final Interagency Policy Statement Establishing Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies." [2] The Policy Statement contains a "collection of information" within the meaning of the Paperwork Reduction Act of 1995 (PRA).

Although the Policy Statement was effective on June 10, 2015, the collection of information was not effective until

[1] 80 FR 33016.

[2] The National Credit Union Administration (NCUA) joined the Agencies in issuing the Policy Statement. However, the NCUA did not join the request for approval under the Paperwork Reduction Act (PRA) of the information collection contained in the Policy Statement as it submitted a separate request for PRA approval.

OMB approved it. Accordingly, the Agencies stated in the Policy Statement that they would announce the effective date of the information collection following OMB's approval. The Agencies are pleased to announce that on February 18, 2016, OMB approved the collection of information for OCC, the Board, FDIC, CFPB, and SEC and approved NCUA's on March 11, 2016; thereby making these collections effective the date of OMB approval. The OMB-assigned control numbers for the collection of information are as follows: OCC—1557–0334; Board—7100–0368; FDIC—3064–0200; CFPB—3170–0060; SEC—3235–0740; and NCUA—3133–0193.

Dated: June 28, 2016.

Karen Solomon,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System, June 28, 2016.

Robert deV. Frierson,

Secretary of the Board.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, this 17th day of June, 2016.

Valerie J. Best,

Assistant Executive Secretary.

Dated: July 6, 2016.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

Dated: June 21, 2016.

Brent J. Fields,

Secretary, Securities and Exchange Commission.

By the National Credit Union Administration Board on June 22, 2016.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2016–16459 Filed 7–12–16; 8:45 am]

BILLING CODE 4810–33–6210–01–6741–01–4810–AM–8010–01–7535–01–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Joint Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collections to be submitted to Office of Management and Budget (OMB) for review and approval under the Paperwork Reduction Act of 1995 (PRA).

SUMMARY: In accordance with the requirements of the PRA (44 U.S.C. chapter 35), the OCC, the Board, and the FDIC (the "agencies") may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number. On September 18, 2015, the agencies, under the auspices of the Federal Financial Institutions Examination Council (FFIEC), requested public comment for 60 days on a proposal for the revision and extension of the Consolidated Reports of Condition and Income (Call Report), which are currently approved collections of information. The proposal included deletions of certain existing data items, revisions of certain reporting thresholds and certain existing data items, the addition of certain new data items, and certain instructional revisions. As described in the **SUPPLEMENTARY INFORMATION** section below, after considering the comments received on the proposal, the FFIEC and the agencies will proceed with most of the reporting revisions proposed in September 2015, with some modifications, and the FFIEC and the agencies are not proceeding with certain elements of the proposal. An additional revision to the instructions proposed by a commenter also would be implemented. These proposed reporting changes would take effect as of the September 30, 2016, or the March 31, 2017, report date, depending on the nature of the proposed reporting change.

DATES: Comments must be submitted on or before August 12, 2016.

ADDRESSES: Interested parties are invited to submit written comments to any or all of the agencies. All comments, which should refer to the OMB control number(s), will be shared among the agencies.

OCC: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email, if possible, to *prainfo@occ.treas.gov*. Alternatively, comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention "1557–0081, FFIEC 031 and 041," 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326.

You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Board: You may submit comments, which should refer to "FFIEC 031 and FFIEC 041," by any of the following methods:

- *Agency Web site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at: *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: regs.comments@federalreserve.gov.* Include the reporting form numbers in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Robert DeV. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP–500 of the Board's Martin Building (20th and C Streets NW.) between 9:00 a.m. and 5:00 p.m. on weekdays.

FDIC: You may submit comments, which should refer to "FFIEC 031 and FFIEC 041," by any of the following methods:

- *Agency Web site: http://www.fdic.gov/regulations/laws/federal/.* Follow the instructions for submitting comments on the FDIC's Web site.

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: comments@FDIC.gov.* Include "FFIEC 031 and FFIEC 041" in the subject line of the message.
- *Mail:* Manuel E. Cabeza, Counsel, Attn: Comments, Room MB–3105, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7:00 a.m. and 5:00 p.m.

Public Inspection: All comments received will be posted without change to *http://www.fdic.gov/regulations/laws/federal/* including any personal information provided. Paper copies of public comments may be requested from the FDIC Public Information Center by telephone at (877) 275–3342 or (703) 562–2200.

Additionally, commenters may send a copy of their comments to the OMB desk officer for the agencies by mail to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW., Washington, DC 20503; by fax to (202) 395–6974; or by email to *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: For further information about the proposed revisions to the Call Report discussed in this notice, please contact any of the agency staff whose names appear below. In addition, copies of the Call Report forms can be obtained at the FFIEC's Web site (*http://www.ffiec.gov/ffiec_report_forms.htm*).

OCC: Kevin Korzeniewski, Senior Attorney, (202) 649–5490, or for persons who are deaf or hard of hearing, TTY, (202) 649–5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

Board: Nuha Elmaghrabi, Federal Reserve Board Clearance Officer, (202) 452–3829, Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may call (202) 263–4869.

FDIC: Manuel E. Cabeza, Counsel, (202) 898–3767, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: The agencies are proposing to revise and extend for three years the Call Report, which is currently an approved collection of information for each agency.

Report Title: Consolidated Reports of Condition and Income (Call Report).

Form Number: FFIEC 031 (for banks and savings associations with domestic and foreign offices) and FFIEC 041 (for banks and savings associations with domestic offices only).

Frequency of Response: Quarterly.

Affected Public: Business or other for-profit.

OCC

OMB Control No.: 1557–0081.

Estimated Number of Respondents: 1,412 national banks and federal savings associations.

Estimated Average Burden per Response: 59.36 burden hours per quarter to file.

Estimated Total Annual Burden: 335,265 burden hours to file.

Board

OMB Control No.: 7100–0036.

Estimated Number of Respondents: 839 state member banks.

Estimated Average Burden per Response: 59.89 burden hours per quarter to file.

Estimated Total Annual Burden: 200,991 burden hours to file.

FDIC

OMB Control No.: 3064–0052.

Estimated Number of Respondents: 3,891 insured state nonmember banks and state savings associations.

Estimated Average Burden per Response: 44.55 burden hours per quarter to file.

Estimated Total Annual Burden: 693,376 burden hours to file.

The estimated burden per response for the quarterly filings of the Call Report is an average that varies by agency because of differences in the composition of the institutions under each agency's supervision (*e.g.,* size distribution of institutions, types of activities in which they are engaged, and existence of foreign offices). The average reporting burden for the filing of the Call Report as it is proposed to be revised is estimated to range from 20 to 775 hours per quarter, depending on an individual institution's circumstances.

Type of Review: Revision and extension of currently approved collections.

General Description of Reports

These information collections are mandatory: 12 U.S.C. 161 (for national banks), 12 U.S.C. 324 (for state member banks), 12 U.S.C. 1817 (for insured state nonmember commercial and savings banks), and 12 U.S.C. 1464 (for federal and state savings associations). At present, except for selected data items, these information collections are not given confidential treatment.

Abstract

Institutions submit Call Report data to the agencies each quarter for the agencies' use in monitoring the condition, performance, and risk profile of individual institutions and the industry as a whole. Call Report data serve a regulatory or public policy purpose by assisting the agencies in fulfilling their missions of ensuring the safety and soundness of financial institutions and the financial system and the protection of consumer financial rights, as well as agency-specific missions affecting national and state-chartered institutions, *e.g.,* monetary policy, financial stability, and deposit insurance. Call Reports are the source of the most current statistical data available for identifying areas of focus for on-site and off-site examinations. The agencies use Call Report data in evaluating institutions' corporate applications, including, in particular, interstate merger and acquisition applications for which, as required by law, the agencies must determine whether the resulting institution would control more than ten percent of the total amount of deposits of insured depository institutions in the United States. Call Report data also are used to calculate institutions' deposit insurance and Financing Corporation assessments and national banks' and federal savings associations' semiannual assessment fees.

Current Actions

I. Introduction

On September 18, 2015, the agencies requested comment on various proposed revisions to the Call Report requirements (September 2015 proposal).[1] These proposed revisions included a number of burden-reducing changes and certain other Call Report revisions identified during the agencies' most recently completed statutorily mandated review of the information collected in the Call Report.[2] The agencies' proposal also incorporated certain additional burden-reducing Call Report changes identified after the completion of the statutory review. Furthermore, the proposal included several new and revised Call Report data items, some of which would have a limited impact on community institutions. Certain instructional clarifications also were contained in the

[1] See 80 FR 56539 (September 18, 2015).

[2] This review is mandated by section 604 of the Financial Services Regulatory Relief Act of 2006 (12 U.S.C. 1817(a)(11)).

proposal. The comment period for the proposal ended on November 17, 2015.

As originally proposed in September 2015, the Call Report revisions were targeted for implementation in December 2015 or March 2016, depending on the nature of the proposed revision. Based on comments received on the proposal and other factors, the FFIEC announced on December 3, 2015, that the effective date of those Call Report revisions with a proposed effective date of December 31, 2015, had been deferred until no earlier than March 31, 2016.[3] On January 8, 2016, the agencies notified reporting institutions that the effective date for all of the proposed Call Report changes had been deferred until no earlier than September 30, 2016.[4]

General comments on the September 2015 notice are summarized in Section II below. Section III of this notice discusses each proposed revision, the related comments received (if any), the disposition of these comments, and the agencies' decision on each proposed revision.[5] The effective dates for the Call Report revisions the agencies are proposing to implement are summarized in Section IV.

The agencies' September 2015 proposal also described the formal initiative the FFIEC launched in December 2014 to identify potential opportunities to reduce burden associated with Call Report requirements for community banks. The FFIEC's initiative, which responds to industry concerns about the cost and burden arising from the Call Report, comprises actions by the FFIEC and the agencies in the following five areas:

- The publication of the September 2015 Call Report proposal, which requested comment on a number of proposed burden-reducing changes and certain other proposed Call Report revisions.
- The acceleration of the start of the agencies' next statutorily mandated review of the existing Call Report data items, which otherwise would have commenced in 2017.
- Consideration of the feasibility and merits of creating a less burdensome version of the quarterly Call Report for institutions that meet certain criteria.
- Obtaining, through industry dialogue, a better understanding of the aspects of institutions' Call Report preparation process that are significant sources of reporting burden, including where manual intervention by an institution's staff is necessary to report particular information.
- Offering periodic training to bankers via teleconferences and webinars that would explain upcoming reporting changes and could also provide guidance on areas of the Call Report bankers find challenging to complete.

II. Comments Received on the September 2015 Proposal

The agencies collectively received comments on the September 2015 proposal from 13 entities: Seven banking organizations, four bankers' associations, and two consulting firms. Comments on the specific Call Report revisions in that proposal are discussed in Section III below. In addition, two banking organizations commented about the burden imposed on them by the Call Report. Furthermore, all four bankers' associations and one consulting firm specifically addressed the community bank Call Report burden-reduction initiative described in the September 2015 proposal, expressing support for this initiative and encouraging the FFIEC and the agencies to pursue the development of a small bank Call Report. One other banking organization provided its recommendation for reducing the information collected in the Call Report, but did not refer to the burden-reduction initiative.

For example, one bankers' association described the FFIEC's formal initiative as "the right answer" for addressing the increased regulatory burden of the Call Report and commended the FFIEC for its consideration of a less burdensome Call Report for community banks. Another bankers' association welcomed the agencies' Call Report streamlining efforts and sought prompt implementation of measures to reduce regulatory burden. The two other bankers' associations commented favorably on the FFIEC's recognition of the reporting burden imposed by the Call Report and encouraged the FFIEC to create a less burdensome Call Report for smaller institutions. They also recommended that the Call Report could be streamlined for smaller institutions because they typically do not engage in many of the activities about which data must be reported in the Call Report.

The FFIEC's 2015 Annual Report describes the status of the actions being undertaken in the five areas within the community bank Call Report burden-reduction initiative as of year-end 2015.[6] In this regard, the annual report notes that the FFIEC's Task Force on Reports (TFOR) "reported to the Council in December 2015 on options for proceeding with a less burdensome Call Report for eligible institutions and other Call Report streamlining methods. The additional feedback about sources of Call Report burden and these options from the TFOR's community banker outreach activities in February 2016 will help inform a subsequent TFOR recommendation to the Council regarding a streamlining proposal for eligible small institutions that can be issued for industry comment in 2016." Thus, the agencies anticipate that they will publish a proposal later this year that will extend the burden-reducing changes to the Call Report beyond those included in the September 2015 proposal and discussed in this notice.

Two bankers' associations presented some additional recommendations to the FFIEC and the agencies in their comments on the September 2015 proposal. These recommendations included establishing "an industry advisory committee to provide the FFIEC with advice and guidance on issues related to FFIEC reports." As one of the actions under the burden-reduction initiative, the FFIEC and the agencies have committed to pursue industry dialogue regarding Call Report matters such as activities enabling the agencies to better understand the burdensome aspects of the Call Report. This is evidenced by community banker outreach activities with small groups of community bankers that were organized by two bankers' associations and conducted via conference call meetings in February 2016. The FFIEC and the agencies believe their existing dialogue with the industry, in addition to the opportunity for public participation in the Call Report revision process, allows ample avenues to provide input concerning revisions to FFIEC reports.

The two associations also recommended that the FFIEC "work to ensure other required regulatory reporting forms are updated simultaneously," which they further described as ensuring consistency between definitions and reporting treatments used in the Call Report and in other regulatory reports that institutions file.[7] The agencies will seek to be more conscious of relationships between the Call Report requirements and other FFIEC regulatory reports,

[3] See Financial Institution Letter (FIL) 57–2015, December 3, 2015, at *https://www.fdic.gov/news/news/financial/2015/fil15057.html.*

[4] See FIL–2–2016, January 8, 2016, at *https://www.fdic.gov/news/news/financial/2016/fil16002.html.*

[5] Section III.C.4 addresses an instructional revision proposed by a banking organization that was not included in the September 2015 proposal.

[6] FFIEC 2015 Annual Report, pages 16–18 (*http://www.ffiec.gov/PDF/annrpt15.pdf*).

[7] As an example, the associations cited an apparent inconsistency between the definition of "domicile" in the Call Report and certain other regulatory reports.

particularly when considering revisions to the data collected in the Call Report.

Another recommendation from the two bankers' associations was for the FFIEC and the agencies to allow sufficient time for institutions to implement any reporting changes. They stated that the proposed effective dates in the September 2015 proposal would not provide sufficient time for implementing the reporting changes. One of the banking organizations expressed a similar concern. The two associations urged the FFIEC and the agencies to implement changes to non-income line items no earlier than a full quarter after the quarter in which the notice requesting OMB approval is published in the **Federal Register**. For data on income and quarterly averages, they suggested that such changes take effect at the beginning of a reporting year.

In recognition of the impact of the September 2015 proposal on institutions from a systems standpoint, the agencies deferred the effective dates for the reporting changes in that proposal to no earlier than September 30, 2016, as mentioned above in Section I. As will be discussed below with respect to the implementation of the specific proposed Call Report changes that are the subject of this notice, the agencies have sought to set the effective dates for these changes in a manner consistent with the timing suggested by the two bankers' associations. To assist institutions in preparing for the reporting changes in this proposal, drafts of the reporting instructions for the new and revised Call Report items will be made available to institutions on the FFIEC's Web site when this **Federal Register** notice requesting OMB approval is published.

III. Discussion of Proposed Call Report Revisions

A. Deletions of Existing Data Items

Based on the agencies' review of the information that institutions are required to report in the Call Report, the agencies determined that the continued collection of the following items is no longer necessary and proposed to eliminate them:

(1) Schedule RI, Income Statement: Memorandum items 14.a and 14.b, on other-than-temporary impairments; [8]

(2) Schedule RC–C, Part I, Loans and Leases: Memorandum items 1.f.(2), 1.f.(5), and 1.f.(6) (and 1.f.(7) on the FFIEC 031), on troubled debt restructurings in certain loan categories that are in compliance with their modified terms;

(3) Schedule RC–N, Past Due and Nonaccrual Loans, Leases, and Other Assets: Memorandum items 1.f.(2), 1.f.(5), and 1.f.(6) (and 1.f.(7) on the FFIEC 031), on troubled debt restructurings in certain loan categories that are 30 days or more past due or on nonaccrual;

(4) Schedule RC–M, Memoranda: Items 13.a.(5)(a) through (d) (and (e) on the FFIEC 031), on loans in certain loan categories that are covered by FDIC loss-sharing agreements; and

(5) Schedule RC–N: Items 11.e.(1) through (4) (and (5) on the FFIEC 031), on loans in certain loan categories that are covered by FDIC loss-sharing agreements and are 30 days or more past due or on nonaccrual.

In addition, the agencies proposed to eliminate Schedule RC–R, Part II, Risk-Weighted Assets, item 18.b, on unused commitments to asset-backed commercial paper conduits with an original maturity of one year or less. Because the Schedule RC–R instructions state that such commitments should be reported in item 10 as off-balance sheet securitization exposures, item 18.b is not needed. Upon the elimination of item 18.b, existing item 18.c of Schedule RC–R, Part II, for unused commitments with an original maturity exceeding one year would be renumbered as item 18.b.

The agencies received comments from two consulting firms and one banking organization regarding these proposed deletions. The banking organization stated that these revisions would have no impact on its reporting. One consulting firm agreed with all of the proposed deletions except the one involving information on other-than-temporary impairment (OTTI) losses in Schedule RI, Memorandum items 14.a and 14.b. The firm believes the deletion of the two OTTI items will eliminate important information about the performance of institutions' securities portfolios and how they recognize OTTI. While the agencies acknowledge that this proposal would result in the loss of information on the total year-to-date amount of OTTI losses and the portion of these losses recognized in other comprehensive income, institutions would continue to report the portion of OTTI losses recognized in earnings. It is this portion of OTTI losses that is of greatest interest and concern to the agencies. Because some or all of each OTTI loss must be recognized in earnings, when an institution reports a substantial amount of OTTI losses in earnings, it is this item that serves as a red flag for further supervisory follow-up by an institution's primary federal regulator (or, if applicable, its state supervisor). Additionally, the portion of OTTI losses that passes through other comprehensive income and accumulates in other comprehensive income is excluded from regulatory capital for the vast majority of institutions.

One consulting firm expressed concern about the proposed deletion of Memorandum items on troubled debt restructurings in certain loan categories in Schedules RC–C, Part I, and RC–N. This firm stated that this information is important for understanding the specific nature of troubled loans relative to restructured loans and suggested that the loan categories being deleted may need to be added back to the Call Report if there is a significant economic downturn. The agencies note that each of the loan categories proposed for deletion is a subset of the larger loan category "All other loans," which institutions would continue to report. Furthermore, the amount of troubled debt restructurings in each of these subset categories is reported only when it exceeds 10 percent of the total amount of troubled debt restructurings in compliance with their modified terms (Schedule RC–C, Part I) or not in compliance with their modified terms (Schedule RC–N), as appropriate. Thus, the total amount of an institution's troubled debt restructurings, both those in compliance with their modified terms and those that are not, would continue to be reported.

After considering these comments, all of the items proposed for deletion would be removed from the Call Report effective September 30, 2016, except for the deletion relating to other-than-temporary impairments, which would take effect March 31, 2017.

B. New Reporting Threshold and Increases in Existing Reporting Thresholds

In five Call Report schedules, institutions are currently required to itemize and describe each component of an existing item when the component exceeds both a specified percentage of the item and a specified dollar amount.[9] Based on a preliminary evaluation of the existing reporting thresholds, the agencies concluded that the dollar portion of the thresholds that currently apply to these items can be increased to

[8] Institutions would continue to complete Schedule RI, Memorandum item 14.c, on net impairment losses recognized in earnings. Memorandum item 14.c would be renumbered Memorandum item 14.

[9] The data items for which components in excess of specified reporting thresholds are required to be itemized and described are included in Schedule RI–E, Explanations; Schedule RC–D, Trading Assets and Liabilities; Schedule RC–F, Other Assets; Schedule RC–G, Other Liabilities; and Schedule RC–Q, Assets and Liabilities Measured at Fair Value on a Recurring Basis.

provide a reduction in reporting burden without a loss of data that would be necessary for supervisory or other public policy purposes. The percentage portion of the existing thresholds would not be changed. Accordingly, the agencies proposed to raise from $25,000 to $100,000 the dollar portion of the threshold for itemizing and describing components of:

(1) Schedule RI–E, item 1, "Other noninterest income;"

(2) Schedule RI–E, item 2, "Other noninterest expense;"

(3) Schedule RC–F, item 6, "All other assets;"

(4) Schedule RC–G, item 4, "All other liabilities;"

(5) Schedule RC–Q, Memorandum item 1, "All other assets;" and

(6) Schedule RC–Q, Memorandum item 2, "All other liabilities."

The agencies also proposed to raise from $25,000 to $1,000,000 the dollar portion of the threshold for itemizing and describing components of "Other trading assets" and "Other trading liabilities" in Schedule RC–D, Memorandum items 9 and 10.

In addition, because institutions with less than $1 billion in total assets typically do not provide support for asset-backed commercial paper conduits, the agencies proposed to exempt such institutions from completing Schedule RC–S, Servicing, Securitization, and Asset Sale Activities, Memorandum items 3.a.(1), 3.a.(2), 3.b.(1), and 3.b.(2), on credit enhancements and unused liquidity commitments provided to asset-backed commercial paper conduits.

The agencies received comments from two bankers' associations, two consulting firms, and two banking organizations regarding the proposed changes involving reporting thresholds. One banking organization supported the higher thresholds, stating that raising the thresholds would reduce reporting burden, but the other said that this change would not have an impact on its reporting. The two bankers' associations expressed support for the targeted approach to increasing the reporting thresholds, but observed that an increase from $25,000 to $100,000 for six items would do little to reduce reporting burden for most institutions. The associations recommended that the FFIEC consider increasing the percentage portion of the reporting threshold from the present three percent to five to seven percent of the total amount of an income statement item for which components must be itemized and described. At present, the percentage portion of the reporting threshold applicable to reporting components of "Other noninterest income" and "Other noninterest expense" in Schedule RI–E is three percent.[10]

Because of the interaction between the dollar and percentage portions of the reporting thresholds on the total amount of an item that is subject to component itemization and description, the agencies acknowledge that the proposed increase in the dollar portion of the reporting threshold from $25,000 to $100,000 may not benefit all institutions, particularly larger institutions. While these threshold changes may not reduce reporting burden for all institutions, they will not increase the amount of information to be reported by any institution. In addition, as stated in the September 2015 proposal, the agencies are conducting the statutorily mandated review of the existing Call Report data items, which may result in additional new or upwardly revised reporting thresholds.

One consulting firm supported the increase in the dollar portion of the reporting threshold for Schedules RC–F, RC–G, and RC–Q, but recommended retaining the $25,000 threshold for the "Other noninterest income" and "Other noninterest expense" in Schedule RI–E. The consulting firm commented that, for smaller banks, information on the components of these noninterest items "is an important indicator of the activity of the bank, its style and management ability" and "provide[s] regulators with a clearer insight into the activities of a bank." This firm also observed that the component information is or should be captured in institutions' internal accounting systems. The agencies recognize that the proposed increase in the dollar portion of the threshold for reporting components of other noninterest income and expense will result in a reduced number of their components being itemized and described in Call Report Schedule RI–E, particularly by smaller institutions. However, in carrying out their on- and off-site supervision of individual institutions, the agencies are able to follow up directly with an individual institution when the level and trend of noninterest income and expense, and other elements of net income (or loss), that are reflected in its Call Reports raise questions about the quality of, and the factors affecting, the institution's reported earnings. The agencies do not believe the proposed increase in the dollar portion of the reporting thresholds in Schedule RI–E will impede their ability to evaluate institutions' earnings.

Another consulting firm questioned the proposed increase from $25,000 to $1,000,000 in the dollar portion of the threshold for itemizing and describing components of "Other trading assets" and "Other trading liabilities" in Schedule RC–D, Memorandum items 9 and 10. In addition to meeting the dollar portion of the threshold, a component must exceed 25 percent of the total amount of "Other trading assets" or "Other trading liabilities" in order to be itemized and described in Memorandum item 9 or 10, respectively. The agencies further note that these two memorandum items are to be completed only by institutions that reported average trading assets of $1 billion or more in any of the four preceding calendar quarters. Thus, at $1,000,000, the proposed higher dollar threshold for component itemization and description in Memorandum items 9 and 10 of Schedule RC–D would represent one tenth of one percent of the amount of average trading assets that an institution must have in order to be subject to the requirement to report components of its other trading assets and liabilities that exceed the reporting threshold. As a result, the agencies believe that raising the dollar portion of the threshold for reporting components of Memorandum items 9 and 10 of Schedule RC–D to $1,000,000 will continue to provide meaningful data while reducing burden for institutions that must complete these items.

After considering the comments about the proposed new and increased reporting thresholds, the agencies propose to implement these changes effective September 30, 2016.[11]

C. Instructional Revisions

1. Reporting Home Equity Lines of Credit That Convert From Revolving to Non-Revolving Status

Institutions report the amount outstanding under revolving, open-end lines of credit secured by 1–4 family residential properties (commonly known as home equity lines of credit or HELOCs) in item 1.c.(1) of Schedule RC–C, Part I, Loans and Leases. Closed-end loans secured by 1–4 family residential properties are reported in Schedule RC–C, Part I, item 1.c.(2)(a) or

[10] For the other items for which the agencies proposed an increase in the dollar portion of the existing reporting threshold, the percentage portion of the threshold is 25 percent of the total amount of the item.

[11] Although the proposed reporting threshold changes would take effect as of September 30, 2016, institutions may choose, but are not required, to continue using $25,000 as the dollar portion of the threshold for reporting components of the specified items in the five previously identified schedules rather than the higher dollar thresholds.

(b), depending on whether the loan is a first or a junior lien.[12]

A HELOC is a line of credit secured by a lien on a 1–4 family residential property that generally provides a draw period followed by a repayment period. During the draw period, a borrower has revolving access to unused amounts under a specified line of credit. During the repayment period, the borrower can no longer draw on the line of credit, and the outstanding principal is either due immediately in a balloon payment or is repaid over the remaining loan term through monthly payments. Because the Call Report instructions do not address the reporting treatment for a home equity line of credit when it reaches its end-of-draw period and converts from revolving to nonrevolving status, the agencies noted in their September 2015 proposal that they have found diversity in how these credits are reported in Schedule RC–C, Part I.

To address this absence of instructional guidance and promote consistency in reporting, the agencies proposed to clarify the instructions for reporting loans secured by 1–4 family residential properties by specifying that after a revolving open-end line of credit has converted to non-revolving closed-end status, the loan should be reported as closed-end in Schedule RC–C, Part I, item 1.c.(2)(a) or (b), as appropriate. In their September 2015 proposal, the agencies also requested comment on whether an instructional requirement to recategorize HELOCs as closed-end loans for Call Report purposes would create difficulties for institutions' loan recordkeeping systems.

The agencies received comments from two bankers' associations, one consulting firm, and one banking organization regarding the proposed instructional clarification for HELOCs. The consulting firm agreed with this clarification because of the consistency in reporting that it would provide. The two bankers' associations stated that they appreciated the proposed clarification, but noted that "material definitional changes would require a whole recoding of these credits." The associations observed that the proposed clarification would likely have implications for other regulatory requirements such as the Comprehensive Capital Analysis and Review, which evaluates the capital planning processes and capital adequacy of the largest U.S.-based bank holding companies. They also described two situations involving HELOCs for which further guidance would be needed if the proposed instructional change were to be implemented and encouraged the agencies to provide examples with the instructions for reporting HELOCs.

The banking organization opposed the proposed instructional clarification for HELOCs and requested that it be withdrawn, citing several difficulties it would encounter in preparing its Call Report if the clarification were made. These difficulties include identifying when a HELOC has begun the repayment period and the lien position of a HELOC at that time because the bank's loan system for HELOCs has not been set up to generate this information. The banking organization requested that the agencies provide time for systems reprogramming if the proposed instructional clarification were to be adopted.

Based on the issues raised in the comments received on the proposed HELOC instructional clarification, the agencies are giving further consideration to this proposal, including its effect on and relationship to other regulatory reporting requirements. Accordingly, the agencies are not proceeding with this proposed instructional clarification at this time and the existing instructions for reporting HELOCs in item 1.c.(1) of Schedule RC–C, Part I, will remain in effect. Once the agencies complete their consideration of this instructional matter and determine whether and how the Call Report instructions should be clarified with respect to the reporting of revolving open-end lines of credit that have converted to non-revolving closed-end status, any proposed instructional clarification will be published in the **Federal Register** for comment.

2. Reporting Treatment for Securities for Which a Fair Value Option Is Elected

The Call Report Glossary entry for "Trading Account" currently states that "all securities within the scope of the Financial Accounting Standards Board's (FASB) Accounting Standards Codification (ASC) Topic 320, Investments-Debt and Equity Securities (formerly FASB Statement No. 115, "Accounting for Certain Investments in Debt and Equity Securities"), that a bank has elected to report at fair value under a fair value option with changes in fair value reported in current earnings should be classified as trading securities." This reporting treatment was based on language contained in former FASB Statement No. 159, "The Fair Value Option for Financial Assets and Financial Liabilities," but that language was not codified when Statement No. 159 was superseded by current ASC Topic 825, Financial Instruments. Accordingly, the agencies proposed to revise the Glossary entry language quoted above by replacing "should be classified" with "may be classified." The agencies also proposed to include comparable language in the Glossary entry for "Securities Activities."

The agencies received comments from two bankers' associations and one consulting firm regarding the proposed instructional revision for the classification of securities for which the fair value option is elected. The consulting firm welcomed the proposal. The two bankers' associations stated that they understood the purpose of the proposed instructional revision, but they requested further clarification of the reporting treatment for "securities for which an institution has elected to use the trading measurement classification," *i.e.,* fair value through earnings.

The agencies have reconsidered this proposed instructional revision in light of the comments received, including the requested further clarification. Based on this reconsideration, the agencies have decided not to implement the proposed instructional revision and to retain the existing Call Report instructions directing institutions to classify securities reported at fair value under a fair value option as trading securities.

3. Net Gains (Losses) on Sales of, and Other-Than-Temporary Impairments on, Equity Securities That Do Not Have Readily Determinable Fair Values

As noted in the September 2015 proposal,[13] the Call Report instructions for Schedule RI, Income Statement, address the reporting of realized gains (losses), including other-than-temporary impairments, on held-to-maturity and available-for-sale securities as well as the reporting of realized and unrealized gains (losses) on trading securities and other assets held for trading. However, the Schedule RI instructions do not specifically explain where to report realized gains (losses) on sales or other disposals of, and other-than-temporary impairments on, equity securities that do not have readily determinable fair values and are not held for trading (and to which the equity method of accounting does not apply).

The instructions for Schedule RI, item 5.k, "Net gains (losses) on sales of other assets (excluding securities)," direct institutions to "[r]eport the amount of

[12] Information also is separately reported for open-end and closed-end loans secured by 1–4 family residential properties in Schedule RI–B, Part I, Charge-offs and Recoveries on Loans and Leases; Memorandum items in Schedule RC–C, Part I; Schedule RC–D; Schedule RC–M; and Schedule RC–N.

[13] See 80 FR 56543–56544 (September 18, 2015).

net gains (losses) on sales and other disposals of assets not required to be reported elsewhere in the income statement (Schedule RI)." The instructions for item 5.k further advise institutions to exclude net gains (losses) on sales and other disposals of securities and trading assets. The intent of this wording was to cover securities designated as held-to-maturity, available-for-sale, and trading securities because there are separate specific items elsewhere in Schedule RI for the reporting of realized gains (losses) on such securities (items 6.a, 6.b, and 5.c, respectively). Thus, the agencies proposed to revise the instructions for Schedule RI, item 5.k, by clarifying that the exclusions from this item of net gains (losses) on securities and trading assets apply to held-to-maturity, available-for-sale, and trading securities and other assets held for trading. The agencies also proposed to add language to the instructions for Schedule RI, item 5.k, that explains that net gains (losses) on sales and other disposals of equity securities that do not have readily determinable fair values and are not held for trading (and to which the equity method of accounting does not apply), as well as other-than-temporary impairments on such securities, should be reported in item 5.k. In addition, the agencies proposed to remove the parenthetic "(excluding securities)" from the caption for item 5.k on the Call Report forms and to add in its place a footnote to this item advising institutions to exclude net gains (losses) on sales of trading assets and held-to-maturity and available-for-sale securities.

The agencies received no comments on these proposed changes to the instructions and report form caption for Schedule RI, item 5.k. Accordingly, the agencies propose to implement these changes effective for reporting purposes in the first quarter of 2017.

4. Custodial Bank Deduction

One banking organization that meets the definition of a custodial bank for deposit insurance assessment purposes [14] submitted a comment on the September 2015 proposal in which it proposed a revision to the reporting of custodial bank data in Schedule RC–O that had not been included in that proposal. The banking organization recommended that a custodial bank that reports that its custodial bank deduction limit is zero in Schedule RC–O, item 11.b, should not need to calculate and report its custodial bank deduction in Schedule RC–O, item 11.a, because no amount can be deducted. The banking organization stated that this proposed revision "would eliminate unnecessary time and effort."

The agencies agree with the banking organization's proposal. Accordingly, the agencies will revise the instructions for Schedule RC–O, item 11.a, "Custodial bank deduction," to state that if a custodial bank's deduction limit as reported in Schedule RC–O, item 11.b, is zero, the custodial bank may leave item 11.a blank rather than calculating and reporting the amount of its deduction. This instructional revision would take effect September 30, 2016.

D. New and Revised Data Items and Information of General Applicability

1. Increase in the Time Deposit Size Threshold

Section 335 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111–203) permanently increased the standard maximum deposit insurance amount (SMDIA) from $100,000 to $250,000 effective July 21, 2010. The SMDIA had been increased temporarily from $100,000 to $250,000 by Section 136 of the Emergency Economic Stabilization Act of 2008 (Pub. L. 110–343). In response to the increase in the limit of deposit insurance coverage, the reporting of the amount of "Total time deposits of $100,000 or more" in Memorandum item 2.c of Schedule RC–E, Deposit Liabilities, was revised as of the March 31, 2010, report date. As of that date, institutions began to separately report their "Total time deposits of $100,000 through $250,000" (Memorandum item 2.c) and their "Total time deposits of more than $250,000" (Memorandum item 2.d).

However, the reporting of the quarterly averages, interest expense, and maturity and repricing data for time deposits of $100,000 or more in Schedules RC–K, RI, and RC–E, respectively, have not been updated to reflect the permanent $250,000 deposit insurance limit. In this regard, in its comment letter to the agencies in response to their first request for comments under the Economic Growth and Regulatory Paperwork Reduction Act of 1996,[15] the American Bankers Association recommended revising the Schedule RC–E deposit reporting items to reflect the new FDIC insurance limit of $250,000. Accordingly, the agencies proposed to revise the time deposit size threshold that applies to the reporting of this information to bring it into alignment with the SMDIA. These proposed changes are illustrated in the following table:

Call report schedule	Current item	Proposed revised item
Schedule RC–K, Quarterly Averages	Item 11.b, "Time deposits of $100,000 or more"	Item 11.b, "Time deposits of $250,000 or less".
	Item 11.c, "Time deposits of less than $100,000"	Item 11.c, "Time deposits of more than $250,000".
Schedule RI, Income Statement [16]	Item 2.a.(2)(b), Interest expense on "Time deposits of $100,000 or more".	Item 2.a.(2)(b), Interest expense on "Time deposits of $250,000 or less".
	Item 2.a.(2)(c), Interest expense on "Time deposits of less than $100,000".	Item 2.a.(2)(c), Interest expense on "Time deposits of more than $250,000".
Schedule RC–E, Deposit Liabilities	Memorandum item 3.a, "Time deposits of less than $100,000 with a remaining maturity or next repricing date of".	Memorandum item 3.a, "Time deposits of $250,000 or less with a remaining maturity or next repricing date of".
	Memorandum item 3.b, "Time deposits of less than $100,000 with a remaining maturity of one year or less".	Memorandum item 3.b, "Time deposits of $250,000 or less with a remaining maturity of one year or less".
	Memorandum item 4.a, "Time deposits of $100,000 or more with a remaining maturity or next repricing date of".	Memorandum item 4.a, "Time deposits of more than $250,000 with a remaining maturity or next repricing date of".

[14] See 12 CFR 327.5(c)(1).

[15] See 79 FR 32172 (June 4, 2014).

[16] The item numbers shown for Schedule RI are from the FFIEC 041 report form for institutions with domestic offices only. On the FFIEC 031 report form for institutions with domestic and foreign offices, the item numbers are items 2.a.(1)(b)(2) and 2.a.(1)(b)(3).

Call report schedule	Current item	Proposed revised item
	Memorandum item 4.b, "Time deposits of $100,000 through $250,000 with a remaining maturity of one year or less". Memorandum item 4.c, "Time deposits of more than $250,000 with a remaining maturity of one year or less".	Memorandum item 4.b, "Time deposits of more than $250,000 with a remaining maturity of one year or less".

The agencies received comments on the proposed increase in the time deposit size threshold for the identified items in Schedules RI, RC–K, and RC–E from four banking organizations, one consulting firm, and two bankers' associations. Three banking organizations and the two bankers' associations supported the proposed increase and further recommended adjusting the deposit size threshold used for certain other data items in Schedule RC–E or combining certain Schedule RC–E deposit items. Specifically, the commenters suggested addressing the reporting of brokered deposit information in Memorandum items 1.c.(1), 1.c.(2), 1.d.(1), 1.d.(2), and 1.d.(3); the reporting of total time deposits in Memorandum items 2.b and 2.c; and the reporting of Individual Retirement Accounts (IRAs) and Keogh Plan accounts in Memorandum item 2.e. In its comments on the time deposit proposal, the fourth banking organization described the systems changes it would need to make to accommodate the proposed change in the reporting of interest expense on and the quarterly averages for time deposits.

In response to these comments, the agencies have reviewed their collection and use of brokered deposit information reported in Memorandum items 1.c.(1), 1.c.(2), 1.d.(1), 1.d.(2), and 1.d.(3), and have determined that these items can be revised to reflect only the $250,000 deposit size threshold. Accordingly, the agencies propose to combine Memorandum items 1.c.(1), "Brokered deposits of less than $100,000," and 1.c.(2), "Brokered deposits of $100,000 through $250,000 and certain brokered retirement deposit accounts," and to collect only "Brokered deposits of $250,000 or less (fully insured brokered deposits)."[17] Further, the agencies propose to combine Memorandum item 1.d.(1), "Brokered deposits of less than $100,000 with a remaining maturity of one year or less," and Memorandum item 1.d.(2), "Brokered deposits of $100,000 through $250,000 with a remaining maturity of one year or less," and to collect only "Brokered deposits of $250,000 or less with a remaining maturity of one year or less."[18] Current Memorandum item 1.d.(3), "Brokered deposits of more than $250,000 with a remaining maturity of one year or less," would be retained without change.

The agencies have also reviewed their collection and use of the deposit information reported in Memorandum item 2.b, "Total time deposits of less than $100,000"; Memorandum item 2.c, "Total time deposits of $100,000 through $250,000"; and Memorandum item 2.e, "Individual Retirements Accounts (IRAs) and Keogh Plan accounts of $100,000 or more included in Memorandum items 2.c and 2.d above."[19] The agencies have determined that the information reported in Memorandum items 2.b and 2.e is necessary for the calculation of the small-denomination time deposits component of the monetary aggregate M2. The small-denomination time deposits component of M2 consists of certain time deposits at banks and thrifts with balances less than $100,000. In this regard, the small-denomination time deposits component of M2 excludes IRA and Keogh Plan account balances at depository institutions because heavy penalties for pre-retirement withdrawals make these balances too illiquid to be included in the monetary aggregates. Because Memorandum item 2.b includes IRA and Keogh Plan account balances held in time deposits of less than $100,000, the data reported in Memorandum item 2.e is used in conjunction with the data reported in Memorandum item 1.a, "Total Individual Retirement Accounts (IRAs) and Keogh Plan accounts," to determine IRA and Keogh Plan account balances of less than $100,000, which are netted from Memorandum item 2.b for M2 calculation purposes. Given the aforementioned need for the continued collection of total time deposits of less than $100,000 in Memorandum item 2.b, the agencies have determined that the information reported in Memoranda item 2.c on total time deposits of $100,000 through $250,000 remains necessary in order for the agencies to measure total time deposits within the FDIC deposit insurance limit of $250,000.

The proposed changes to Schedules RC–K, RI, and RC–E shown in the table above as well as the proposed combining of Memorandum items 1.c.(1) and 1.c.(2) and Memorandum items 1.d.(1) and 1.d.(2) in Schedule RC–E would take effect March 31, 2017.

2. Level of External Auditing Work Performed for the Reporting Institution During the Preceding Year

Each year in the March Call Report, each institution indicates in Schedule RC, Balance Sheet, Memorandum item 1, the most comprehensive level of auditing work performed by independent external auditors during the preceding calendar year for the institution or its parent holding company. In completing Memorandum item 1, each institution selects from nine statements describing a range of levels of auditing work the one statement that best describes the level of auditing work performed for it. Certain statements from which an institution must choose do not reflect current auditing practices performed in accordance with applicable standards and procedures promulgated by the U.S. auditing standard setters, namely the Public Company Accounting Oversight Board (PCAOB) and the Auditing Standards Board (ASB) of the American Institute of Certified Public Accountants.

The PCAOB's Auditing Standard No. 5 (AS 5), An Audit of Internal Control Over Financial Reporting That Is Integrated with An Audit of Financial Statements, became effective for fiscal years ending on or after November 15, 2007, and provides guidance regarding the integration of audits of internal control over financial reporting with audits of financial statements for public companies. To further emphasize the integration of these two audits, the PCAOB revised AS 5 in December 2010 by adding a statement that "the auditor cannot audit internal control over financial reporting without also auditing the financial statements." Those public companies not required to undergo an audit of internal control over financial

[17] This item would be designated Memorandum item 1.c.

[18] This item would be designated Memorandum item 1.d.(1).

[19] Memorandum item 2.d collects data on "Total time deposits of more than $250,000."

reporting must have an audit of their financial statements.

The ASB provided similar guidance in Attestation Section 501 (AT 501), An Examination of an Entity's Internal Control over Financial Reporting That Is Integrated with an Audit of Its Financial Statements, which became effective for integrated audits of private companies for periods ending on or after December 15, 2008. Consistent with the PCAOB, the ASB stated in AT 501 that "[t]he examination of internal control should be integrated with an audit of financial statements" and "[a]n auditor should not accept an engagement to review an entity's internal control or a written assertion thereon." Under the ASB's previous attestation standards, an entity could engage an external auditor to examine and attest to the effectiveness of its internal control over financial reporting without auditing the entity's financial statements. Thus, at present, unless a private company is required to or elects to have an integrated internal control examination and financial statement audit, the private company may be required to or can choose to have an external auditor perform an audit of its financial statements, but it may not engage an external auditor to perform a standalone internal control examination. More recently, the ASB concluded that, because engagements performed under AT 501 are required to be integrated with an audit of financial statements, it would be appropriate to move the content of AT 501 from the attestation standards into U.S. generally accepted auditing standards. As a consequence, the ASB issued Statement on Auditing Standards No. 130, An Audit of Internal Control Over Financial Reporting That Is Integrated With an Audit of Financial Statements (SAS 130), in October 2015. SAS 130 is effective for integrated audits of private companies for periods ending on or after December 15, 2016, at which time AT 501 will be withdrawn.

The existing wording of statements 1, 2, and 3 of Schedule RC, Memorandum item 1, reads as follows:

1 = Independent audit of the bank conducted in accordance with generally accepted auditing standards by a certified public accounting firm which submits a report on the bank.

2 = Independent audit of the bank's parent holding company conducted in accordance with generally accepted auditing standards by a certified public accounting firm which submits a report on the consolidated holding company (but not on the bank separately).

3 = Attestation on bank management's assertion on the effectiveness of the bank's internal control over financial reporting by a certified public accounting firm.

Because these three statements no longer fully and properly describe the types of external auditing services performed for institutions or their parent holding companies under current professional standards and to enhance the information institutions provide the agencies annually about the level of external auditing work performed for them, the agencies proposed in their September 2015 proposal to replace existing statements 1 and 2 with new statements 1a, 1b, 2a, and 2b and to eliminate existing statement 3. The revised statements would read as follows:

1a = An integrated audit of the reporting institution's financial statements and its internal control over financial reporting conducted in accordance with the standards of the American Institute of Certified Public Accountants (AICPA) or the Public Company Accounting Oversight Board (PCAOB) by an independent public accountant that submits a report on the institution.

1b = An audit of the reporting institution's financial statements only conducted in accordance with the auditing standards of the AICPA or the PCAOB by an independent public accountant that submits a report on the institution.

2a = An integrated audit of the reporting institution's parent holding company's consolidated financial statements and its internal control over financial reporting conducted in accordance with the standards of the AICPA or the PCAOB by an independent public accountant that submits a report on the consolidated holding company (but not on the institution separately).[20]

2b = An audit of the reporting institution's parent holding company's consolidated financial statements only conducted in accordance with the auditing standards of the AICPA or the PCAOB by an independent public accountant that submits a report on the consolidated holding company (but not on the institution separately).

The agencies received comments on the proposed revisions to the statements about level of auditing external worked performed for an institution from one banking organization and two bankers' associations. One banking organization stated that it did not oppose the proposed revision. The two bankers' associations stated that they did not object to this change, but requested that the definition of "integrated" be clarified and expanded. The agencies will provide additional explanatory information about the meaning of an "integrated audit" in the revised instructions for Schedule RC, Memorandum item 1. This proposed reporting change would take effect March 31, 2017.

[20] The instructions for statement 2a would indicate this statement also applies to a reporting institution with $5 billion or more in total assets and a rating lower than 2 under the Uniform Financial Institutions Rating System that is required by Section 36(i)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1831m(i)(1)) to have its internal control over financial reporting audited at the institution level, but undergoes a financial statement audit at the consolidated holding company level.

3. Chief Executive Officer Contact Information

All reporting institutions have been requested to provide "Emergency Contact Information" as part of their Call Report submissions since September 2002. This information request was added to the Call Report so that the agencies could distribute critical, time-sensitive information to emergency contacts at institutions should such a need arise. The primary contact should be a senior official of the institution who has decision-making authority. The primary contact may or may not be the institution's Chief Executive Officer (CEO). Information for a secondary contact also should be provided if such a person is available at an institution. The emergency contact information is for the confidential use of the agencies and is not released to the public.

The agencies periodically need to communicate with the CEOs of reporting institutions via email, but they currently do not have a complete list of CEO email addresses that would enable an agency to communicate directly to institutions' CEOs. The CEO communications are initiated or approved by persons at the agencies' senior management levels and would involve topics including new initiatives, policy notifications, and assessment information.

To streamline the agencies' CEO communication process, the agencies proposed to request CEO contact information, including email addresses, in the Call Report separately from, but in a manner similar to, the currently requested "Emergency Contact Information." As with the "Emergency Contact Information," the proposed CEO contact information would be for the confidential use of the agencies and would not be released to the public. The agencies intend for CEO email addresses to be used judiciously and only for significant matters requiring CEO-level attention. Having a comprehensive database of CEO contact information, including email addresses, would allow the agencies to communicate important and time-sensitive information directly to CEOs.

One banking organization commented on the proposed reporting of CEO contact information, stating that it was not opposed to this proposal. The agencies propose to implement the collection of this information as of the September 30, 2016, report date.

4. Reporting the Legal Entity Identifier

The Legal Entity Identifier (LEI) is a 20-digit alpha-numeric code that uniquely identifies entities that engage in financial transactions. The recent financial crisis spurred the development of a global LEI system. The LEI system is designed to facilitate several financial stability objectives, including the provision of higher quality and more accurate financial data. In the United States, the Financial Stability Oversight Council (FSOC) has recommended that regulators and market participants continue to work together to improve the quality and comprehensiveness of financial data both nationally and globally. In this regard, the FSOC also has recommended that its member agencies promote the use of the LEI in reporting requirements and rulemakings, where appropriate.[21]

Effective in 2014 and 2015, the Board began collecting LEIs from holding companies and certain holding company subsidiary banking and nonbanking legal entities in the FR Y–6, FR Y–7, and FR Y–10 reports[22] only if a holding company or subsidiary entity already has an LEI. With respect to the Call Report, the agencies proposed to have institutions provide their LEI on the cover page of the report only if an institution already has an LEI. As with the Board reports, an institution that does not have an LEI would not be required to obtain one for purposes of reporting it on the Call Report.

One banking organization commented on the proposed LEI reporting, stating that it was not opposed to this proposal as long as an institution without an LEI would not be required to obtain one for Call Report purposes. The agencies propose to implement the collection of LEIs on the Call Report cover page only from institutions that already have LEIs as of the September 30, 2016, report date. The LEI must be a currently issued, maintained, and valid LEI, not an LEI that has lapsed.

5. Additional Preprinted Captions for Itemizing and Describing Components of Certain Items That Exceed Reporting Thresholds

As mentioned above in Section III.B, institutions are required to itemize and describe each component of certain items in five Call Report schedules when the component exceeds both a specified percentage of the item and a specified dollar amount. To simplify and streamline the reporting of these components and thereby reduce reporting burden, preprinted captions have been provided for those components of each of these items that, based on the agencies' review of the components previously reported for these items, institutions most frequently itemize and describe. When a preprinted caption is provided for a particular component of an item, an institution is not required to report the amount of that component when the amount falls below the applicable reporting thresholds.

Based on the most recent review of the component descriptions manually entered by reporting institutions because preprinted captions were not available, the agencies stated in their September 2015 proposal that they were planning to add one new preprinted caption to Schedule RI–E, item 1, "Other noninterest income," two new preprinted captions to Schedule RI–E, item 2, "Other noninterest expense," and three new preprinted captions to Schedule RC–F, item 6, "All other assets."[23] The introduction of these new preprinted captions is intended to simplify institutions' compliance with the requirement to itemize and describe those components of these items that exceed the applicable reporting thresholds (which are being revised effective September 30, 2016, as described above in Section IV.B). The new preprinted caption for "Other noninterest income" is "Income and fees from wire transfers." The two new preprinted captions for "Other noninterest expense" are "Other real estate owned expenses" and "Insurance expenses (not included in employee benefits, premises and fixed assets expenses, and other real estate owned expenses)." The three new preprinted captions for "All other assets" are "Computer software," "Accounts receivable," and "Receivables from foreclosed government-guaranteed mortgage loans."

Two banking organizations commented on the introduction of new preprinted captions, but raised no objection. The agencies propose to add the preprinted captions to the Call Report effective September 30, 2016.

6. Extraordinary Items

In January 2015, the FASB issued ASU No. 2015–01, "Simplifying Income Statement Presentation by Eliminating the Concept of Extraordinary Items." This ASU eliminates the concept of extraordinary items from U.S. generally accepted accounting principles. Until the effective date of this ASU, an entity was required under ASC Subtopic 225–20, Income Statement—Extraordinary and Unusual Items (formerly Accounting Principles Board Opinion No. 30, "Reporting the Results of Operations"), to separately classify, present, and disclose extraordinary events and transactions. An event or transaction was presumed to be an ordinary and usual activity of the reporting entity unless evidence clearly supports its classification as an extraordinary item. For Call Report purposes, if an event or transaction met the criteria for extraordinary classification, an institution had to segregate the extraordinary item from the results of its ordinary operations and report the extraordinary item in its income statement in Schedule RI, item 11, "Extraordinary items and other adjustments, net of income taxes."

ASU 2015–01 is effective for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2015. Thus, for example, an institution with a calendar year fiscal year had to begin applying the ASU in its Call Report for March 31, 2016, unless it chose to early adopt the ASU. After an institution adopts ASU 2015–01, any event or transaction that would have met the criteria for extraordinary classification before the adoption of the ASU should be reported in Schedule RI, item 5.l, "Other noninterest income," or item 7.d, "Other noninterest expense," as appropriate, unless the event or transaction would otherwise be reportable in another item of Schedule RI.

Consistent with the elimination of the concept of extraordinary items in ASU 2015–01, the agencies stated in the September 2015 proposal that they planned to revise the instructions for Schedule RI, item 11,[24] and remove the term "extraordinary items" from and revise the captions for Schedule RI, item 8, "Income (loss) before income taxes and extraordinary items and other adjustments," item 10, "Income (loss) before extraordinary items and other

[21] Financial Stability Oversight Council 2015 Annual Report, page 14 (*http://www.treasury.gov/initiatives/fsoc/studies-reports/Documents/2015%20FSOC%20Annual%20Report.pdf*).

[22] FR Y–6, Annual Report of Holding Companies; FR Y–7, Annual Report of Foreign Banking Organizations; and FR Y–10, Report of Changes in Organizational Structure (OMB Control No. 7100–0297).

[23] The addition of one of the new preprinted captions to Schedule RC–F, item 6, is based on the expected usage of a component resulting from the FASB's issuance of Accounting Standards Update (ASU) No. 2014–14, "Classification of Certain Government-Guaranteed Mortgage Loans upon Foreclosure," that is or soon will be in effect for all institutions depending, in part, on their fiscal years.

[24] The outdated reference to the reporting of the cumulative effect of certain changes in accounting principles in the instructions for item 11, which is inconsistent with the guidance in the Call Report Glossary entry for "Accounting Changes," would be deleted from the instructions.

adjustments," and item 11, as well as Schedule RI–E, item 3, "Extraordinary items and other adjustments and applicable income tax effect." [25]

As an interim measure because ASU 2015–01 is already in effect for most institutions, a footnote was added to item 11 on Schedule RI and item 3 on Schedule RI–E on the Call Report forms for March 31, 2016, addressing the elimination of the concept of extraordinary items. The footnote explains that the captions will be revised at a later date and only the results of discontinued operations should be reported in these two items.

The agencies received no comments on the planned changes related to extraordinary items. Accordingly, effective September 30, 2016, the captions for Schedule RI, items 8, 10, and 11, would be revised to say "Income (loss) before income taxes and discontinued operations," "Income (loss) before discontinued operations," and "Discontinued operations, net of applicable income taxes," respectively. Similarly, the caption for Schedule RI–E, item 3, would be revised to say, "Discontinued operations and applicable income tax effect."

E. New and Revised Data Items of Limited Applicability

1. Changes to Schedule RC–Q, Assets and Liabilities Measured at Fair Value on a Recurring Basis

Schedule RC–Q is completed by institutions that had total assets of $500 million or more as of the beginning of their fiscal year and by smaller institutions that either are required to complete Schedule RC–D, Trading Assets and Liabilities, or have elected to report financial instruments or servicing assets and liabilities at fair value under a fair value option.

Institutions that complete Schedule RC–Q are currently required to treat securities they have elected to report at fair value under a fair value option as part of their trading securities. As a consequence, institutions include fair value information for their fair value option securities, if any, in Schedule RC–Q two times: First, as part of the fair value information they report for their "Other trading assets" in item 5.b of the schedule, and then on a standalone basis in item 5.b.(1), "Nontrading securities at fair value with changes in fair value reported in current earnings." This reporting treatment flows from the existing provision of the Glossary entry for "Trading Account" that, as discussed in Section III.C.2, requires an institution that has elected to report securities at fair value under a fair value option to classify the securities as trading securities. However, as discussed above, the agencies proposed in their September 2015 proposal to remove this requirement, which would have permitted an institution to classify fair value option securities as held-to-maturity, available-for-sale, or trading securities.

In its current form, Schedule RC–Q contains an item for available-for-sale securities along with the items identified above for "Other trading assets," which includes securities designated as trading securities, and "Nontrading securities at fair value with changes in fair value reported in current earnings." However, given the existing instructional requirements for fair value option securities, Schedule RC–Q does not include an item for reporting held-to-maturity securities because only securities reported at amortized cost are included in this category of securities. By proposing to remove the requirement to report fair value option securities as trading securities, as discussed in Section III.C.2, the agencies also proposed in their September 2015 proposal to eliminate item 5.b.(1) of Schedule RC–Q for nontrading securities accounted for under a fair value option and add a new item to Schedule RC–Q to capture data on "Held-to-maturity securities" to which a fair value option is applied.

In addition, at present, institutions that have elected to measure loans (not held for trading) at fair value under a fair value option are required to report the fair value and unpaid principal balance of such loans in Memorandum items 10 and 11 of Schedule RC–C, Part I, Loans and Leases. Because Schedule RC–C, Part I, must be completed by all institutions, Memorandum items 10 and 11 also must be completed by all institutions although only a nominal number of institutions with less than $500 million in assets have disclosed reportable amounts for any of the categories of fair value option loans reported in the subitems of these two Memorandum items. Accordingly, to mitigate some of the reporting burden associated with Schedule RC–C, Part I, the agencies proposed to move Memorandum items 10 and 11 on the fair value and unpaid principal balance of fair value option loans from Schedule RC–C, Part I, to Schedule RC–Q and to designate them as Memorandum items 3 and 4.

The agencies received comments from two bankers' associations seeking further clarification of the proposed reporting of held-to-maturity securities, available-for-sale securities, and securities for which a trading measurement classification has been elected in Schedule RC–Q. As stated above in Section III.C.2, the agencies reconsidered, and decided not to implement, the proposed instructional revision that would no longer have required an institution to classify fair value option securities as trading securities. Based on this decision, the agencies also will not implement the proposed elimination of the existing Schedule RC–Q item for nontrading securities accounted for under a fair value option and their proposed addition to the schedule of a new item for held-to-maturity securities.

The agencies received no comments on the proposal to move the Memorandum items in Schedule RC–C, Part I, on the fair value and unpaid principal balance of fair value option loans to Schedule RC–Q, where they would be designated as Memorandum items 3 and 4. Therefore, the agencies propose to proceed with this change effective March 31, 2017.

2. Revisions to the Reporting of the Impact on Trading Revenues of Changes in Credit and Debit Valuation Adjustments by Institutions With Total Assets of $100 Billion or More

Institutions that reported average trading assets of $2 million or more for any quarter of the preceding calendar year must report a breakdown of their trading revenue (as reported in Schedule RI, item 5.c) by underlying risk exposure in Schedule RI, Memorandum items 8.a though 8.e. The five types of risk exposure are interest rate, foreign exchange, equity security and index, credit, and commodity and other. Institutions required to provide this five-way breakdown of their trading revenue that have $100 billion or more in total assets must also report the "Impact on trading revenue of changes in the creditworthiness of the bank's derivative counterparties on the bank's derivative assets" and the "Impact on trading revenue of changes in the creditworthiness of the bank on the bank's derivative liabilities" in Schedule RI, Memorandum items 8.f and 8.g, respectively. Memorandum items 8.f and 8.g were intended to capture the amounts included in trading revenue that resulted from calendar year-to-date changes in the reporting institution's credit valuation adjustments (CVA) and debit valuation adjustments (DVA).

The agencies have found inconsistent reporting of CVAs and DVAs by the institutions completing Memorandum items 8.f and 8.g of Schedule RI, which

[25] Items 3.c.(1) and (2) also would be removed from Schedule RI–E.

affects the analysis of reported trading revenues. For example, some institutions report CVAs and DVAs in these two items on a gross basis while other institutions report these adjustments on a net (of hedging) basis.

Consistent reporting of the impact on trading revenue from year-to-date changes in CVAs and DVAs is necessary to ensure the accuracy of the data available to examiners for planning and conducting safety and soundness examinations of institutions' trading activities and to the agencies for their analyses of derivatives and trading activities, and changes therein, at the industry and institution level.

To enhance the quality of the trading revenue information reported by the largest institutions in the United States, promote consistency across institutions in the reporting of CVAs and DVAs, enable examiners to make more informed judgments about institutions' effectiveness in managing CVA and DVA risks, and provide a more complete picture of reported trading revenue, the agencies proposed in their September 2015 proposal to replace existing Memorandum items 8.f and 8.g of Schedule RI with a tabular set of data items. As proposed by the agencies, institutions meeting the criteria for completing Memorandum items 8.f and 8.g would begin to separately present their gross CVAs and DVAs (Memorandum items 8.f.(1) and 8.g.(1)) and any related CVA and DVA hedging results (Memorandum items 8.f.(2) and 8.g.(2)) in the table by type of underlying risk exposure (columns A through E). These institutions also would report their gross trading revenue by type of underlying risk exposure before including positive or negative net CVAs and net DVAs in columns A through E of a proposed new Memorandum item 8.h, "Gross trading revenue." For purposes of this proposed tabular set of data items, the September 2015 proposal would have required CVA and DVA amounts, as well as their hedges, to be allocated to the type of underlying risk exposure (*e.g.*, interest rates, foreign exchange, and equity) that gives rise to the CVA and the DVA.

In proposing that certain institutions with assets of $100 billion or more report expanded information on the impact on trading revenues of changes in CVAs and DVAs, related hedging results, and gross trading revenues, the agencies requested comment on the availability of these data by type of underlying risk exposure.

The agencies received comments on this trading revenue proposal from one consulting firm and two bankers' associations. The consulting firm welcomed the proposal. The bankers' associations commented that the agencies' proposed approach for reporting the impact on trading revenues of changes in CVAs and DVAs differs from how many banks currently report their CVAs and DVAs. As a result, these banks "do not currently have the capability to calculate this information by type of underlying risk exposures." The associations stated that building and testing the systems and processes necessary to enable banks to report the trading revenue information in the manner proposed by the agencies would require a delay in the implementation date of not less than one year beyond the effective date proposed by the agencies for the initial reporting of this information. The associations also requested that the agencies provide greater clarity and specificity in the instructions for the proposed expansion of trading revenue information by type of underlying risk exposure.

To address the bankers' associations' comments, the agencies have revised their proposal to eliminate the reporting by type of underlying risk exposure. As revised, institutions required to complete Schedule RI, Memorandum items 8.f and 8.g (*i.e.*, institutions that reported average trading assets of $2 million or more for any quarter of the preceding calendar year and have $100 billion or more in total assets), would separately present the year-to-date changes in gross CVAs and DVAs in new Memorandum items 8.f.(1) and 8.g.(1), respectively, and any related year-to-date CVA and DVA hedging results in Memorandum items 8.f.(2) and 8.g.(2), respectively. The instructions for these items would explain that when CVA and DVA are components in a bilateral valuation adjustment calculation for a derivatives counterparty, the year-to-date change in the gross CVA component and the gross DVA component for that counterparty should be reported in items 8.f.(1) and 8.g.(1), respectively.

Institutions required to complete Memorandum items 8.f and 8.g also would report as "Gross trading revenue" in new Memorandum item 8.h the year-to-date results of their trading activities before the impact of any year-to-date changes in valuation adjustments, including, but not limited to, CVA and DVA. The amount reported as gross trading revenue in Memorandum item 8.h plus or minus all year-to-date changes in valuation adjustments should equal Schedule RI, item 5.c, "Trading revenue."

The agencies propose to implement Memorandum items 8.f and 8.g and new Memorandum item 8.h of Schedule RI, as revised in response to comments received, in the Call Report for March 31, 2017.

3. Dually Payable Deposits in Foreign Branches of U.S. Banks

Under the Federal Deposit Insurance Act (FDI Act), deposit obligations carried on the books and records of foreign branches of U.S. banks are not considered deposits, unless the funds are payable both in the foreign branch and at an office of the bank in the United States (that is, they are dually payable). In September 2013, the FDIC issued a final rule amending its deposit insurance regulations to clarify that deposits carried on the books and records of a foreign branch of a U.S. bank are not insured deposits even if they are made payable both at that branch and at an office of the bank in any state of the United States.[26] In addition, the final rule provides an exception for Overseas Military Banking Facilities operated under Department of Defense regulations.

The final rule does not affect the ability of a U.S. bank to make a foreign deposit dually payable. Should a bank do so, its foreign branch deposits would be treated as deposit liabilities under the FDI Act's depositor preference regime in the same way as, and on an equal footing with, domestic uninsured deposits. In general, "depositor preference" refers to a resolution distribution regime in which the claims of depositors have priority over (that is, are satisfied before) the claims of general unsecured creditors. Thus, if deposits held in foreign branches of U.S. banks located outside the United States are made dually payable, that is, made payable at both the foreign office and a branch of the bank located in the United States, the holders of such deposits would receive depositor preference in the event of the U.S. bank's failure.

To enable the FDIC to monitor the volume and trend of dually payable deposits in the foreign branches of U.S. banks, the agencies proposed to add a new Memorandum item 2 to Schedule RC–E, Part II, Deposits in Foreign Offices, on the FFIEC 031 Call Report. The FFIEC 031 is applicable only to banks with foreign offices. The proposed new information on the amount of dually payable deposits at foreign branches of U.S. banks would enable the FDIC to determine, as required by statute, the least costly method of resolving a particular bank if it fails and the potential loss to the Deposit Insurance Fund. This requires

[26] See 78 FR 56583 (September 13, 2013).

the FDIC to plan for the distribution of the proceeds from the liquidation of the failed bank's assets, including consideration not only of insured deposits, but also other deposit liabilities for purposes of depositor preference, such as domestic uninsured deposits and dually payable deposits in foreign branches of the particular U.S. bank, which take priority over general unsecured liabilities.

The agencies received no comments on the proposed reporting of dually payable deposits at foreign branches of U.S. banks. The collection of this data item would be implemented as of September 30, 2016, but it would be added to the FFIEC 031 Call Report as Memorandum item 4 of Schedule RC–O, Other Data for Deposit Insurance and FICO Assessments, rather than as Memorandum item 2 of Schedule RC–E, Part II.

4. Revisions To Implement the Supplementary Leverage Ratio for Advanced Approaches Institutions

Schedule RC–R, Part I, Regulatory Capital Components and Ratios, item 45, applies to the reporting of the supplementary leverage ratio (SLR) by advanced approaches institutions.[27] In the sample Call Report forms and the Call Report instruction book for report dates before March 31, 2015, the caption for item 45 and the instructions for this item both indicated that, effective for report dates on or after January 1, 2015, advanced approaches institutions should begin to report their SLR in the Call Report as calculated for purposes of Schedule A, item 98, of the FFIEC 101, Regulatory Capital Reporting for Institutions Subject to the Advanced Capital Adequacy Framework.[28] However, the agencies suspended the collection of Schedule RC–R, Part I, item 45, before it took effect March 31, 2015, due to amendments to the SLR rule[29] and the need for updates to the associated SLR data collection in the FFIEC 101.

In July 2015, the agencies finalized the most recent revisions to the SLR rule, which requires all advanced approaches institutions to disclose three items: The numerator of the SLR (Tier 1 capital, which is already reported in Call Report Schedule RC–R), the denominator of the SLR (total leverage exposure), and the ratio itself.[30] As part of the proposed revisions to the FFIEC 101, the SLR section of the FFIEC 101 will apply only to top-tier advanced approaches institutions (generally, bank and savings and loan holding companies), and not to their subsidiary depository institutions.[31] Therefore, lower tier advanced approaches depository institutions generally will not report SLR data in the FFIEC 101, but will need to do so in the Call Report, which would satisfy the SLR disclosure requirement in the revised SLR rule.[32]

Thus, the agencies proposed to add a new item 45.a to Schedule RC–R, Part I, in which an advanced approaches depository institution (regardless of parallel run status) would report total leverage exposure as calculated under the agencies' SLR rule.

The agencies also proposed to renumber current item 45 of Schedule RC–R, Part I, as item 45.b, to collect an institution's SLR. The ratio to be reported in item 45.b would equal Tier 1 capital reported on Schedule RC–R, Part I, item 26, divided by total leverage exposure reported in proposed item 45.a. Renumbered item 45.b would no longer reference the FFIEC 101 because lower tier depository institutions would no longer be calculating or reporting their SLRs in the FFIEC 101.

The agencies received one comment from a consulting firm that welcomed the reinstatement of SLR information in the Call Report. The reporting of SLR information in items 45.a and 45.b of Call Report Schedule RC–R would take effect September 30, 2016.

IV. Summary of the Effective Dates for the Proposed Revisions

The list below summarizes the effective dates for each of the Call Report changes included in the agencies' September 2015 proposal (and an additional instructional revision proposed by a banking organization) as discussed above in the preceding section of this notice.

The following proposed Call Report revisions would take effect September 30, 2016:

- Deletions of certain existing data items pertaining to troubled debt restructurings from Schedules RC–C, Part I, and RC–N; loans covered by FDIC loss-sharing agreements from Schedules RC–M and RC–N; and unused commitments to asset-backed commercial paper conduits with an original maturity of one year or less in Schedule RC–R, Part II;
- Increases in existing reporting thresholds for certain data items in Schedules RI–E, RC–D, RC–F, RC–G, and RC–Q and the establishment of a reporting threshold for certain data items in Schedule RC–S;
- An instructional revision addressing the reporting of the custodial bank deduction in Schedule RC–O;
- New and revised data items and information of general applicability, including:
  - Adding contact information for the reporting institution's Chief Executive Officer;
  - Reporting the Legal Entity Identifier for the reporting institution (on the Call Report cover page) if the institution already has one;
  - Creating additional preprinted captions for itemizing and describing components of certain items that exceed reporting thresholds in Schedules RC–F and RI–E; and
  - Eliminating the concept of extraordinary items and revising affected data items in Schedules RI and RI–E; and
- New and revised data items of limited applicability, including:
  - Adding a new item on "dually payable" deposits in foreign branches of U.S. banks to Schedule RC–O on the FFIEC 031 report; and
  - Revising the information reported about the supplementary leverage ratio by advanced approaches institutions in Schedule RC–R, Part I.

The following proposed Call Report revisions would take effect March 31, 2017:

- Deletions of certain existing data items pertaining to other-than-temporary impairments from Schedule RI;

[27] In general, an advanced approaches institution (i) has consolidated total assets (excluding assets held by an insurance underwriting subsidiary) on its most recent year-end regulatory report equal to $250 billion or more; (ii) has consolidated total on-balance sheet foreign exposure on its most recent year-end regulatory report equal to $10 billion or more (excluding exposures held by an insurance underwriting subsidiary); (iii) is a subsidiary of a depository institution that uses the advanced approaches to calculate its total risk-weighted assets; (iv) is a subsidiary of a bank holding company or savings and loan holding company that uses the advanced approaches to calculate its total risk-weighted assets; or (v) elects to use the advanced approaches to calculate its total risk-weighted assets.

[28] OMB control numbers for the FFIEC 101: For the OCC, 1557–0239; for the Board, 7100–0319; and for the FDIC, 3064–0159.

[29] See 79 FR 57725 (September 26, 2014). The amendments to the SLR rule took effect January 1, 2015.

[30] See 80 FR 41409 (July 15, 2015). The disclosure requirement is set forth in the agencies' regulatory capital rules (12 CFR 3.172 (OCC); 12 CFR 217.172 (Board), and 12 CFR 324.172 (FDIC)).

[31] See 81 FR 22702 (April 18, 2016) as corrected in 81 FR 24940 (April 27, 2016).

[32] Because certain depository institutions are exempt from filing the FFIEC 101, but must still report their SLR numerator, denominator, and ratio, the agencies proposed the depository institution-level collection of SLR data in the Call Report rather than in the FFIEC 101.

- An instructional revision addressing the reporting of net gains (losses) and other-than-temporary impairments on equity securities that do not have readily determinable fair values on the Call Report income statement;
- New and revised data items of general applicability, including:
  - Increasing the time deposit size threshold used to report certain deposit information from $100,000 to $250,000 in Schedules RC–E, RI, and RC–K;
  - Revising the statements used to describe the level of external auditing work performed for the reporting institution during the preceding year in Schedule RC; and
- New and revised data items of limited applicability, including:
  - Moving the existing Memorandum items for the fair value and unpaid principal balance of loans (not held for trading) measured under a fair value option from Schedule RC–C, Part I, to Schedule RC–Q; and
  - Revising the information reported in Schedule RI by certain institutions with total assets of $100 billion or more on the impact on trading revenues of changes in credit and debit valuation adjustments and adding a new item for gross trading revenue.

The agencies are not proceeding with the following elements of the September 2015 proposal:

- Proposed instructional clarifications addressing the reporting of securities for which a fair value option is elected for measurement purposes on the Call Report balance sheet and the reporting of home equity lines of credit that convert from revolving to non-revolving status in Schedule RC–C, Part I, and certain other schedules; and
- Revisions to the reporting of certain securities measured under a fair value option in Schedule RC–Q.

For the September 30, 2016, and March 31, 2017, report dates, as applicable, institutions may provide reasonable estimates for any new or revised Call Report data item initially required to be reported as of that date for which the requested information is not readily available. The specific wording of the captions for the new or revised Call Report data items discussed in this notice and the numbering of these data items should be regarded as preliminary.

V. Request for Comment

Public comment is requested on all aspects of this joint notice. Comments are invited on:

(a) Whether the proposed revisions to the collections of information that are the subject of this notice are necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

(b) The accuracy of the agencies' estimates of the burden of the information collections as they are proposed to be revised, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Comments submitted in response to this joint notice will be shared among the agencies. All comments will become a matter of public record.

Dated: July 7, 2016.

Karen Solomon,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

Dated: July 1, 2016.

Robert deV. Frierson,

Secretary of the Board, Board of Governors of the Federal Reserve System.

Dated at Washington, DC, this 5th day of July 2016.

Robert E. Feldman,

Executive Secretary, Federal Deposit Insurance Corporation.

[FR Doc. 2016–16533 Filed 7–12–16; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments regulations governing practice before the Internal Revenue.

DATES: Written comments should be received on or before September 12, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Allan Hopkins at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Regulations Governing Practice Before the Internal Revenue Service.

OMB Number: 1545–1726.

Regulation Project Number: REG–111835–00.

Abstract: These regulations affect individuals who are eligible to practice before the Internal Revenue Service. These regulations also authorize the Director of Practice to act upon applications for enrollment to practice before the Internal Revenue Service. The Director of Practice will use certain information to ensure that: (1) Enrolled agents properly complete continuing education requirements to obtain renewal; (2) practitioners properly obtain consent of taxpayers before representing conflicting interests; (3) practitioners do not use e-commerce to make misleading solicitations.

Current Actions: There is no change to this existing regulation.

Type of Review: Reinstatement of a previously approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 718,400.

Estimated Time per Respondent: 2 hours, 28 minutes.

Estimated Total Annual Burden Hours: 1,777,125.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All

comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 8, 2016.

Allan Hopkins,

Tax Analyst.

[FR Doc. 2016–16554 Filed 7–12–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning financial asset securitization investment trust; real estate mortgage investment conduits; real estate mortgage investment conduits.

DATES: Written comments should be received on or before September 12, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Allan Hopkins at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Financial Asset Securitization Investment Trusts; Real Estate Mortgage Investment Conduits.

OMB Number: 1545–1675. *Regulation Project Number:* [REG–100276–97; REG–122450–98]; TD 9004 (final).

Abstract: REG–122450–98 Sections 1.860E–1(c)(4)–(10) of the Treasury Regulations provide circumstances under which a transferor of a noneconomic residual interest in a Real Estate Mortgage Investment Conduit (REMIC) meeting the investigation, and two representation requirements may avail itself of the safe harbor by satisfying either the formula test or asset test. This regulation provides start-up and transitional rules applicable to financial asset securitization investment trust. TD 9004 contains final regulations relating to safe harbor transfers of noneconomic residual interests in real estate mortgage investment conduits (REMICs). The final regulations provide additional limitations on the circumstances under which transferors may claim safe harbor treatment.

Current Actions: The original NPRM (REG–100276–97; REG–122450–97) combined proposed rulemaking activities for (1) Financial Asset Securitization Investment Trusts (FASIT) and (2) Real Estate Mortgage Investment (REMIC). Only the rules applicable to REMIC were finalized under § 1.860E–1 by TD 9004. Public Law 108–357 later repealed the FASIT requirements under 26 U.S.C. 860H through 860L.

Type of Review: Reinstatement of a previously approved collection.

Affected Public: Business or other for-profit.

Estimated Number of Respondents and/or Record-Keeping: 470.

Estimated Average Annual Burden Hours per Respondent and/or Record-keeping: 1 hour.

Estimated Total Annual Reporting and/or Record Keeping Burden: 470.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 8, 2016.

Allan Hopkins,

Tax Analyst.

[FR Doc. 2016–16556 Filed 7–12–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 99–43

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 99–43, Nonrecognition Exchanges under Section 897.

DATES: Written comments should be received on or before September 12, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this regulation should be directed to Allan Hopkins, Internal

Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Nonrecognition Exchanges Under Section 897.

OMB Number: 1545–1660.

Notice Number: Notice 99–43.

Abstract: Notice 99–43 announces modification of the current rules under Temporary Regulation section 1.897–6T(a)(1) regarding transfers, exchanges and other dispositions of U.S. real property interests in nonrecognition transactions occurring after June 18, 1980. The notice provides that, contrary to section 1.897–6T(a)(1), a foreign taxpayer will not recognize a gain under Code 897(e) for an exchange described in Code section 368(a)(1)(E) or (F), provided the taxpayer receives substantially identical shares of the same domestic corporation with the same divided rights, voting power, liquidation preferences, and convertability as the shares exchanged without any additional rights or features.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Reinstatement of a previously approved collection.

Affected Public: Business or other for-profit organizations, and individuals or households.

Estimated Number of Respondents: 100.

Estimated Time per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 200.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 7, 2016.

Allan Hopkins,

Tax Analyst.

[FR Doc. 2016–16555 Filed 7–12–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Monitoring Availability and Affordability of Automobile Insurance

AGENCY: Federal Insurance Office, Departmental Offices, Treasury.

ACTION: Notice; advising adoption of methodology to monitor affordability of personal automobile insurance.

SUMMARY: The Federal Insurance Office (FIO) of the U.S. Department of the Treasury (Treasury) issues this notice pursuant to its authority to monitor the extent to which traditionally underserved communities and consumers, minorities, and low- and moderate-income (LMI) persons have access to affordable personal automobile insurance. In July 2015, FIO sought comments from stakeholders, including state insurance regulators, consumer organizations, representatives of the insurance industry, policyholders, academics, and others regarding: FIO's proposed working definition of "affordability" in relation to personal automobile insurance; the key factors FIO should use to calculate an affordability index for Affected Persons [*e.g.,* premium, income, and other metrics); and how best to obtain appropriate data to monitor effectively the affordability of personal automobile insurance for Affected Persons. After carefully considering all the comments received in response to this and a previous solicitation, in conjunction with additional research and consultation, FIO has adopted a method to measure the affordability of automobile insurance for Affected Persons: FIO will calculate its Affordability Index by dividing the average (or mean) annual written personal automobile liability premium in the voluntary market by the median household income for U.S. Postal Service ZIP Codes (ZIP Codes) identified as being majority-minority or majority-LMI. FIO will presume that personal automobile liability insurance is affordable for Affected Persons if the Affordability Index is less than or equal to 2 percent.

To undertake the study of the affordability of automobile insurance for Affected Persons, FIO will collect and analyze premium data received and aggregated by statistical agents. In addition, FIO will use data publicly available through the U.S. Census Bureau. In combination, these data sources should facilitate analysis necessary for FIO to monitor the affordability of personal auto insurance for Affected Persons. FIO will report its findings annually, and note, among other things, the trend of the Affordability Index relative to each of the ZIP Codes analyzed.

FOR FURTHER INFORMATION CONTACT: Lindy Gustafson, Federal Insurance Office, 202–622–6245 (not a toll free number).

SUPPLEMENTARY INFORMATION:

I. Background

Subtitle A of Title V of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the Wall Street Reform Act) established FIO in Treasury and provides it with a number of authorities, including the authority to monitor the extent to which traditionally underserved communities and consumers, minorities, and low- and moderate-income (LMI) persons (collectively, Affected Persons) have access to affordable insurance products regarding all lines of insurance, other than health insurance.[1]

In notices published in the **Federal Register** by FIO in April 2014 (April 2014 Notice)[2] and July 2015 (July 2015 Notice),[3] FIO explained the reasons it is monitoring the availability and affordability of personal automobile liability insurance for Affected Persons. They are:

1. Nearly all jurisdictions of the United States generally require a driver or owner of a motor vehicle to maintain automobile liability insurance or financial security that may be satisfied by automobile liability insurance and that is applicable at the time of an accident, while operating a motor vehicle, or at the time of registering a motor vehicle;

[1] 31 U.S.C. 313(c)(1)(B).

[2] Monitoring Availability and Affordability of Auto Insurance, 79 FR 19,969 (Apr. 10, 2014) (April 2014 Notice).

[3] Monitoring Availability and Affordability of Auto Insurance, 80 FR 38,277 (Jul. 2, 2015) (July 2015 Notice).

2. On a nationwide basis, the percentage of uninsured motorists was approximately 14 percent between 2002 and 2009, before decreasing to 12.3 percent in 2010, 12.2 percent in 2011, and 12.6 percent in 2012;

3. Owning an automobile gives low-income commuters greater access to jobs since public "transit only enables [low-income commuters] to reach less than one-third of metro-wide jobs within 90 minutes . . . while the automobile enables them to reach all jobs in the 51 largest metropolitan areas within 60 minutes;" [4] and

4. Although some stakeholders have asserted that automobile insurance has become more affordable over time, representatives for consumers continue to assert that automobile insurance has become less affordable for Affected Persons.

A. The April 2014 Notice

In the April 2014 Notice, FIO requested comments regarding, among other things: A reasonable and meaningful definition of affordability of personal automobile insurance, and the metrics and data FIO should use to monitor the extent to which Affected Persons have access to affordable personal automobile insurance.[5]

B. The July 2015 Notice

In the July 2015 Notice, FIO sought comments from the public on a framework for measuring the affordability of automobile insurance for Affected Persons. Based on comments submitted in response to the April 2014 Notice, FIO proposed a working definition for affordable personal auto insurance based on an affordability index. To do that, the July 2015 Notice set out in sequence: (1) A proposed definition of affordability; (2) a proposed definition and proposed calculation of an affordability index; (3) a proposed calculation of average premium; (4) a proposed definition of the market scope for an affordability index; and (5) a proposed definition of Affected Persons.[6] Based on its consideration of those elements, FIO proposed the following working definition of affordable personal auto insurance:

> A personal auto[mobile] liability insurance policy is affordable if the annual premiums are within the financial means of most people as measured by an affordability index for Affected Persons in the standard market. Personal auto[mobile] liability insurance is presumed to be affordable if, with respect to household income, the affordability index does not exceed two percent for Affected Persons in urban areas, for LMI persons within a specific geographic area (including rural areas), or for all individuals in majority minority geographic areas.[7]

i. The Definition of Affordability

In developing its working definition of affordability, FIO considered three definitions submitted by commenters on the April 2014 Notice and ultimately proposed adopting the definition of "affordability" derived from a dictionary and submitted by one commenter: "being within the financial means of most people." [8] FIO explained that this "common sense definition may be used to develop 'a practical and effective approach to monitoring access to affordable personal auto[mobile] insurance.'" [9]

ii. Use of an Affordability Index

FIO observed that some federal agencies use an index to measure affordability and provided examples. For instance, the U.S. Department of Housing and Urban Development (HUD) has a publicly available location affordability index that estimates the percentage of a family's income dedicated to the combined cost of housing and transportation in a given location.[10] Additionally, the Consumer Financial Protection Bureau (CFPB) has a definition of "qualified mortgage" based, in part, on the ratio of the consumer's total monthly debt to total monthly income.[11] Given the use of indices by other federal agencies, and FIO's statutory authority to monitor affordability for Affected Persons, FIO endorsed the concept of an affordability index for personal automobile insurance and proposed to calculate an affordability index for personal automobile insurance for Affected Persons.[12]

iii. Average Premium

FIO stated that an affordability index for Affected Persons may be derived from a broad set of criteria, such as the average premium for personal liability insurance, personal injury protection, comprehensive insurance, collision insurance, uninsured motorist insurance, and underinsured motorist insurance; or more narrow criteria, such as the average premium for personal automobile liability insurance for a given year.[13] FIO proposed to limit the calculation of an affordability index to the average annual personal automobile liability insurance premium for Affected Persons after considering comments to the April 2014 Notice. FIO chose this approach because states generally require the purchase of personal automobile liability insurance as a condition of driving or owning a motor vehicle.[14]

FIO noted that the affordability of personal automobile insurance may be calculated by an examination of the average premium calculated as either (1) the total annual written premium for all insurers writing personal automobile insurance divided by the total number of policies; or (2) the total annual premium quoted by a sample of insurers writing personal automobile insurance divided by the number of insurers in the sample. FIO proposed to use one or both of these average premium metrics for annual premium depending on available data sources.[15]

iv. Market Scope for an Affordability Index

FIO explained that an affordability index may be calculated for the entire market for personal automobile liability insurance or a specific market within personal automobile insurance because, historically, the automobile insurance market has been divided into three segments: (1) The standard market; (2) the non-standard market; and (3) the residual market. FIO described the residual market as generally comprised of the highest risk drivers, *i.e.*, drivers who do not qualify for personal automobile insurance offered in the standard market or non-standard market; the non-standard market as

[4] Clifford Winston, "On the Performance of the U.S. Transportation System: Caution Ahead," *Journal of Economic Literature*, Vol. 51, No. 3 at 805 (2013) (citations omitted), *available at https://www.aeaweb.org/articles?id=10.1257/jel.51.3.773.*

[5] April 2014 Notice, *supra* note 2, at 19,970.

[6] July 2015 Notice, *supra* note 3.

[7] *Id.* at 38,280.

[8] *Id.* at 38,279.

[9] *Id.* (quoting Property and Casualty Insurers Association of America, at 1 (June 9, 2014), *available at http://www.regulations.gov/#!documentDetail;D=TREAS-DO-2014-0001-0020*).

[10] *Id.* at 38,279 & fn. 33 (citing HUD, "Location Affordability Portal," *available at http://www.locationaffordability.info/lai.aspx*).

[11] 12 CFR 1026.43(e)(2)(vi).

[12] July 2015 Notice, *supra* note 3, at 38,279.

[13] *Id.*

[14] *Id.* at 38,278. *See also* Insurance Information Institute, "Compulsory Auto/Uninsured Motorists" (June 2016) (listing automobile financial responsibility limits and enforcement by state), *available at http://www.iii.org/issue-update/compulsory-auto-uninsured-motorists.* New Hampshire is the only state that does not require the purchase of personal automobile liability insurance; however, drivers must be able to demonstrate they are able to provide sufficient funds to meet New Hampshire Motor Vehicle Financial Responsibility Requirements in the event of an "at-fault" accident. *See* State of New Hampshire Insurance Department, "Your Guide to Understanding Auto Insurance in the Granite State," at 1, *available at http://www.nh.gov/insurance/consumers/documents/nh_auto_guide.pdf.*

[15] July 2015 Notice, *supra* note 3, at 38,279.

comprised of high risk drivers, such as new drivers, drivers with moving violations, drivers with a rare or unusual motor vehicle, or drivers with a high automobile insurance policy cancellation or non-renewal rate; and the standard market as comprised of all other drivers. FIO reported that generally annual premiums for personal automobile insurance are highest in the residual market, followed by the non-standard market, and, finally, the standard market.[16] Accordingly, FIO proposed to limit the calculation of an affordability index for personal automobile liability insurance to the standard market in order to diminish the impact of the annual premiums charged to the highest risk drivers.

In describing the framework that would be applied to determine whether personal automobile insurance is affordable, FIO examined the level of a person's income that should be devoted to that expenditure and cited to the suggestion by at least one commenter to the April 2014 Notice, that personal automobile insurance is affordable if it does not claim more than 2 percent of a low-income family's take-home pay.[17] FIO also cited another study of the affordability of personal automobile insurance that found the national average insurance expenditures divided by national median income has been below 2 percent since 1995.[18] In addition, FIO also cited to a Current Employment Statistics (CES) report that found the average expenditure for all households for automobile insurance and the average income after taxes for all households, based on 2013 data, indicated that all consumers spent about 1.6 percent of average income after taxes on automobile insurance.[19] Based on this analysis, FIO proposed to presume personal automobile liability insurance is affordable if, for Affected Persons, the affordability index is less than or equal to 2 percent of household income.[20]

v. Definition of Affected Persons

FIO is statutorily authorized to monitor the extent to which traditionally underserved communities and consumers, minorities, and low- and moderate-income persons have access to affordable insurance products. FIO adopted the term "Affected Persons" to describe traditionally underserved communities and consumers, minorities, and low- and moderate-income (LMI) persons.

FIO initially proposed to use "urban area," as defined by the U.S. Census Bureau (Census Bureau), as a proxy for traditionally underserved communities and consumers.[21]

FIO then proposed to define LMI by adapting the definitions used by the Federal Deposit Insurance Corporation (FDIC), which defines low-income as "individuals and geographies having a median family income less than 50 percent of the area median income" and moderate-income as "individuals and geographies having a median family income of at least 50 percent and less than 80 percent of the area median income." [22] "The area median income is: (1) The median family income for the [metropolitan statistical area]; or (2) the statewide non-metropolitan median family income, if a person or geography is located outside a [metropolitan statistical area]." [23] FIO proposed to adapt this definition by using median household income as defined and identified by the Census Bureau,[24] instead of median family income, in its study of affordability of personal automobile insurance. Accordingly, FIO proposed to define LMI persons as "individuals living in areas where the annual income of the geographic area is less than 80 percent of the median household income of a metropolitan statistical area or state." [25]

FIO noted that the term "minorit[y]" is defined by law as "Black American, Native American, Hispanic American, or Asian American." [26] It proposed to use ZIP Codes in which the minority population exceeds 50 percent as the standard for majority-minority geographic areas.

vi. Data Source and Request for Comments

FIO concluded the July 2015 Notice by describing the data needed to conduct its study, and sought opinions on how best to collect that information. FIO explained that it considered the currently available data relating to premiums for personal automobile insurance and concluded that the data is inadequate for FIO to monitor the extent to which Affected Persons have access to affordable personal automobile insurance.[27] FIO stated that insurers have the most complete and accurate information that would allow it to perform its function of monitoring the extent to which Affected Persons have access to affordable automobile insurance and would be able to provide accurate price quotes for a given profile of a driver, including for a specific geographic area.[28] In addition, FIO noted, insurers have the information to calculate the average annual premium for liability coverage for personal automobile liability insurance in the standard market for urban areas, and areas where the majority of residents are minorities or LMI persons.[29]

Finally, FIO again requested that commenters provide feedback on the following:

1. FIO's proposed working definition of "affordability" in relation to personal automobile insurance;

2. The key metrics FIO proposes to use to calculate an affordability index for Affected Persons (*e.g.*, premium, income, and other metrics); and

3. The best approach for FIO to obtain appropriate data to monitor effectively the affordability of personal automobile insurance for Affected Persons.[30]

[16] *Id.* at 38,820 & fn. 38, noting that, in 2011, of the 330 insurers that wrote personal auto insurance in the standard and non-standard market, 95 wrote personal auto insurance in the non-standard market. Of the 95 insurers in the non-standard market, 15 also wrote in the standard market. *See* StoneRidge Advisors, LLC, "Non-Standard Auto Insurance Market Overview & M&A Trends," View from the Ridge (August 2012), at 2, *available at http://stoneridgeadvisors.com/Content/View_From_The_Ridge_August_2012.pdf.*

[17] July 2015 Notice, *supra* note 3, at 38,278.

[18] *Id.* at 38,280 (citing Insurance Research Council, *Auto Insurance Affordability* (November 2013), at 7).

[19] *Id.* at 38,280. Each month the Bureau of Labor Statistics' CES program surveys approximately 146,000 businesses and government agencies, representing approximately 623,000 individual worksites, in order to provide detailed industry data on employment, hours, and earnings of workers on nonfarm payrolls. *See* BLS, "Current Employment Statistics—CES National," *available at http://www.bls.gov/ces/.*

[20] July 2015 Notice, *supra* note 3, at 38,280.

[21] *Id.* (proposing to define urban area as densely developed territory that encompasses at least 2,500 people, of which at least 1,500 reside outside the institutional group quarters. *See* Census Bureau, "2010 Census Urban Area FAQs," *available at https://www.census.gov/geo/reference/ua/uafaq.html).*

[22] July 2015 Notice, *supra* note 3, at 38,280 & fn. 41 (quoting FDIC, "Community Reinvestment Act (CRA) Performance Ratings," *available at https://www5.fdic.gov/crapes/peterms.asp).*

[23] *Id.*

[24] *Id.* at 38,280 & fn. 43, noting that household income includes income received on a regular basis by the householder and all other individuals 15 years of age and older in the household, whether related to the householder or not. It does not include capital gains or noncash benefits. According to the Census Bureau, "respondents report income earned from wages or salaries much better than other sources of income and that the reported wage and salary income is nearly equal to independent estimates of aggregate income." Census Bureau, "About Income," *available at https://www.census.gov/hhes/www/income/about/.*

[25] July 2015 Notice, *supra* note 3, at 38,280.

[26] 31 U.S.C. 313(c)(1)(B) (incorporating by reference the definition established in 12 U.S.C. 1811, note).

[27] July 2015 Notice, *supra* note 3, at 38,280.

[28] *Id.* at 38,281.

[29] *Id.*

[30] *Id.*

II. Final Working Definition of Affordable Personal Auto Insurance

After considering all the comments received—to both the April 2014 and July 2015 Notices [31]—and after undertaking additional research and stakeholder consultation, FIO has adopted a final working framework to study the affordability of personal auto insurance for Affected Persons. Personal auto liability insurance is presumed to be affordable if using an affordability index that is calculated by dividing the average annual written personal automobile liability premium in the voluntary market by the median household income for ZIP Codes identified as being majority-minority or majority-LMI, the Affordability Index does not exceed 2 percent.

In adopting this final working definition, FIO has made some changes to the proposed working definition from the July 2015 Notice based on comments and additional research. First, FIO will use the average annual written personal automobile liability premium in the voluntary market to calculate the Affordability Index. Second, FIO has adopted a different method of defining and accounting for Affected Persons to reflect issues with measuring traditionally underserved communities. Third, FIO has clarified that, to calculate the Affordability Index, FIO will use median household income data for ZIP Codes identified as majority-minority and majority-LMI areas. Finally, FIO has concluded that, based on comments and its additional research and consultation, all other aspects of the working definition are adopted as proposed.

A. Elements of Working Definition of Affordable Personal Automobile Liability Insurance for Affected Persons

For its final working definition, FIO has adopted an index to measure the affordability of automobile insurance for Affected Persons. FIO's Affordability Index will be calculated as the average annual written personal automobile liability premium in the voluntary market divided by the median household income for the ZIP Codes identified as majority-minority and majority-LMI.

i. Affordability Index

Based on comments received in response to the July 2015 Notice, insurers generally oppose the concept of using an affordability index to measure affordability for each category of Affected Persons. The Financial Services Roundtable (FSR) commented that a "mathematical index . . . attempts to reduce a myriad of complex factors into a single 'one-size fits all' formula," and "is inappropriate, insufficient, and perhaps even misleading as a measure of auto insurance affordability." [32] The Property and Casualty Insurers Association of America (PCI) commented that an "affordability index does not consider that insurers have little or no control over the costs that drive auto insurance premiums and the 'pass through' nature of the insurance mechanism." [33] Meanwhile, the National Association of Professional Insurance Agents (PIA) commented that "attempts to define affordability as a fixed measure of income, [do] not give an accurate assessment of the non-insurance related factors—such as state tort law and highway safety measures—that impact insurance prices." [34] Two groups of consumer advocates that provided comments—the Consumer Federation of America (CFA) and New Yorkers for Responsible Lending (NYRL)—support the creation and use of an affordability index to define affordability.[35] CFA commented that it supports "an affordability index that defines affordability as a . . . percentage of a household's annual income." [36] NYRL commented that "an affordability index is an effective way to evaluate the affordability of personal auto insurance" and "should be based on the cost of auto insurance as percentage of income." [37] The Insurance Research Council (IRC) also offered support, acknowledging that an affordability index can be a useful method for monitoring affordability over time.[38] In an August 2015 IRC Study, *Trends in Auto Insurance Affordability* (the IRC 2015 Study), the IRC used "expenditure and income data to form the IRC's expenditure-to-income ratio." [39]

FIO acknowledges the various objections to adopting an affordability index as a tool to measure and evaluate the affordability of personal automobile insurance. FIO recognizes that some commenters view an index as reducing a myriad of complex factors into a single formula,[40] or that an index, potentially, disregards non-insurance factors such as state tort law and highway safety measures.[41] However, FIO is influenced by the established practices of other federal agencies that use indices to measure affordability, and for other purposes. Significantly, HUD created the Location Affordability Index to provide estimates of the percentage of a family's income dedicated to the combined cost of housing and transportation in a given location.[42] Furthermore, FIO notes that the Bureau of Labor Statistics (BLS) in the U.S. Department of Labor (DOL) has long produced the Consumer Price Index (CPI), the most widely used measure of inflation, which provides information about price changes in the U.S. economy,[43] while the U.S. Department of Commerce, Bureau of Economic Analysis produces the Personal Consumption Expenditure Price Index (PCE),[44] generally thought to be "the single most comprehensive and theoretically compelling measure of consumer prices." [45] And, even within the private sector, the National Association of Realtors produces the monthly Housing Affordability Index, which provides a way to track over time

[31] Eighteen comments were submitted in response to the April 2014 Notice and 11 submitted in response to July 2015 Notice. All comments are available through *www.regulations.gov*.

[32] FSR, at 2, 7 (August 31, 2015), *available at http://www.regulations.gov/#!documentDetail;D=TREAS-DO-2015-0005-0011* (FSR Comment).

[33] PCI, at 2 (August 13, 2015), *available at http://www.regulations.gov/#!documentDetail;D=TREAS-DO-2015-0005-0006* (PCI Comment).

[34] PIA, at 2 (August 28, 2015), *available at http://www.regulations.gov/#!documentDetail;D=TREAS-DO-2015-0005-0004* (PIA Comment).

[35] CFA, at 1 (August 31, 2015), *available at http://www.regulations.gov/#!documentDetail;D=TREAS-DO-2015-0005-0014* (CFA Comment): NYRL, at 1 (August 31, 2015), *available at http://www.regulations.gov/#!documentDetail;D=TREAS-DO-2015-0005-0010* (NYRL Comment). "CFA" includes all signatories to the comment letter—10 national groups (Americans for Financial Reform; Consumer Action; Consumer Federation of America; Consumers Union; NAACP; National Association of Consumer Advocates; National Consumer Law Center, on behalf of its low-income clients; National Council of LaRaza; U.S. PIRG, and United Policyholders) as well as 39 state groups from Alaska, California, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Montana, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Utah and Virginia.

[36] CFA Comment, *supra* note 37, at 2.

[37] NYRL Comment, *supra* note 37, at 1.

[38] IRC, at 1 (August 28, 2015), *available at http://www.regulations.gov/#!documentDetail;D=TREAS-DO-2015-0005-0005* (IRC Comment).

[39] IRC 2015 Study at 17, *summary available at http://www.insurance-research.org/research-publications/trends-auto-insurance-affordability.*

[40] FSR Comment, *supra* note 34, at 2.

[41] PIA Comment, *supra* note 36, at 2.

[42] Additional details about the HUD Location Affordability Index are available at *http://www.locationaffordability.info/default.aspx.*

[43] Additional information about the Consumer Price Index is available at *http://www.bls.gov/cpi/home.htm.*

[44] Additional information about the Personal Consumption Expenditure Price Index is available at *http://www.bea.gov/faq/index.cfm?faq_id=518.*

[45] Craig S. Hakkio, "PCE and CPI Inflation Differentials: Converting Inflation Forecasts," *Economic Review*, at 51 (Federal Reserve Bank of Kansas City 2008), *available at https://www.kansascityfed.org/publicat/econrev/pdf/1q08hakkio.pdf.*

whether housing is becoming more or less affordable for the typical household.[46] Finally, the IRC produces its own automobile insurance affordability index.[47]

FIO notes the persuasive precedent of federal agencies using indices to measure affordability, among other economic measures, and agrees with those commenters who assert that an affordability index is an effective and meaningful way to measure and evaluate the affordability of personal automobile insurance. Furthermore, as FIO discussed in the July 2015 Notice, other federal agencies use indices to measure other kinds of affordability. Accordingly, given FIO's statutory authority to monitor affordability for Affected Persons, FIO confirms the adoption and use of the Affordability Index. FIO recognizes that an index does not address affordability for any individual consumer but that it is a tool that will help monitor over time the changes and trends in automobile liability insurance premiums for Affected Persons as a group. Consistent with its statutory authority, FIO will limit the application of the Affordability Index and evaluate affordability only for Affected Persons.

ii. Average Premium

FIO stated in the July 2015 Notice that an affordability index may be calculated using the average annual written personal automobile liability premium.[48] The July 2015 Notice sought comment on the appropriate method of calculating the average premium and the types of policies included in the calculation.

Three commenters specifically addressed the appropriateness of using the average premium price at all. The American Insurance Association (AIA) commented that average premiums should not be used to calculate an affordability index because doing so would reflect a population, even among Affected Persons, who choose to buy higher limits, adjust their deductible, or have multiple household drivers or vehicles on a single policy.[49] In contrast, the American Academy of Actuaries (AAA) took the opposite view and commented "that an appropriate measure of affordability of automobile insurance would be to compare average premium to average income."[50]

In its comment, the PIA recommended using the median rather than the average, as it is a more precise measure because "[e]ven when limiting consideration to personal auto[mobile] liability in the standard market, consumer choices and insurance practices will skew average results in certain areas of the country."[51] Although a median might be a more precise measure than an average, it would require collection of data that is not readily available and that therefore might place an undue burden on the collecting agencies, insurers, and others.

After reviewing the comments, and taking into consideration the varying perspectives on whether to use the average premium cost, FIO has concluded that using an average premium price is appropriate to calculate the Affordability Index. FIO will use average premium price data for the purpose of calculating the Affordability Index because of the following factors: (1) Average premium data is more frequently collected;[52] (2) additional conversations with industry participants have mitigated concerns of skewness in the premium distribution; and (3) using average premium data will reduce the reporting and computational burden on participating insurers and statistical agents.

In the July 2015 Notice, FIO proposed two ways to calculate average premium: (1) Average annual written premium for all insurers writing personal auto insurance or (2) average quoted premium for a sample of insurers. Allstate was the only industry commenter to specifically address the issue of using written or quoted premiums. In its comment, Allstate recommended "using actual total premiums written" because that information is collected by state insurance departments and the National Association of Insurance Commissioners (NAIC). It stated further that "[t]he collection of quote information . . . would necessitate the development of 'hypothetical' customers who may or may not be representative of the people purchasing insurance in a particular area."[53] Consumer advocates objected to the use of written premium over quoted premium, expressing concerns that using the actual prices paid for coverage, *i.e.*, written premiums, does not provide a good measure of affordability because some consumers will not purchase insurance upon receiving quotes that are too expensive.[54] Accordingly, consumer advocates recommended that FIO analyze data to reflect the premiums actually offered or presented to, rather than the premiums paid by, Affected Persons.[55]

FIO will use written premium, not quoted premium, in this final working definition. One commenter supporting using quoted premium has previously acknowledged its drawbacks. In a September 2014 study, the Consumer Federation of America opined that collecting premium quotes from Web sites has several limitations such as (1) not all insurers' Web sites provide quotes; (2) a quote may be higher or lower than the actual price a consumer would pay depending on credit record; and, (3) because quotes must be collected manually, it is difficult to collect premium information for a large number of geographies or driver profiles.[56] Although commenters make a reasonable argument for gauging affordability based on quoted premiums, the drawbacks identified in the 2014 study and by commenters dictate use of annual written premium, not annual quoted premium, in the calculation of the Affordability Index.

Commenters were divided on FIO's proposal to limit its analysis to only the premium for liability coverage and not consider comprehensive, collision or other costs associated with personal auto insurance. Comments from consumer advocates expressed concerns about this approach's exclusion of comprehensive and collision coverage costs from an affordability index calculation.[57] Both CFA and NYRL commented that premiums for comprehensive and collision coverage should be included in calculating an

[46] Additional information about the Housing Affordability Index is available at *http://www.realtor.org/topics/housing-affordability-index.*

[47] IRC 2015 Study, *supra* note 41.

[48] July 2015 Notice, *supra* note 3, at 38,279.

[49] AIA, at 3 (Aug. 31, 2015), *available at http://www.regulations.gov/#!documentDetail;D=TREAS-DO-2015-0005-0009* (AIA Comment).

[50] AAA, at 1 (Aug. 31, 2015), *available at http://www.regulations.gov/#!documentDetail;D=TREAS-DO-2015-0005-0012* (AAA Comment).

[51] PIA Comment, *supra* note 36, at 3.

[52] A recent study on auto insurance affordability similarly focused on average premiums because national and state insurance expenditure data was "only available as an average." Patrick Schmid, "Auto Insurance Affordability," *Journal of Insurance Regulation*, vol. 33, no. 9, at 4 & fn.5 (2014), *available at http://www.naic.org/documents/prod_serv_jir_JIR-ZA-33-09-EL.pdf.*

[53] Allstate, at 6 (August 27, 2015), *available at http://www.regulations.gov/#!documentDetail;D=TREAS-DO-2015-0005-0003* (Allstate Comment).

[54] *See* CFA Comment, *supra* note 37, at 6–7; NYRL Comment, *supra* note 37, at 5–6.

[55] *Id.*

[56] Tom Feltner, Stephen Brobeck, & J. Robert Hunter, *The High Price of Mandatory Auto Insurance for Lower Income Households: Premium Price Data for 50 Urban Regions*, at 3–4 (Consumer Fed. of America Sept. 2014), *available at http://www.consumerfed.org/pdfs/140929_highpriceofmandatoryautoinsurance_cfa.pdf.*

[57] CFA Comment, *supra* note 37, at 3; NYRL Comment, *supra* note 37, at 3–4.

affordability index because "a rising number of low- to moderate-income drivers have car loans that require additional insurance coverage." [58] In addition, CFA noted that this coverage costs "approximately the same amount as the basic liability policy offered by a company," [59] while NYRL commented that the cost of comprehensive and collision coverage "puts an additional burden on the driver who may make just enough to make the car payment" [60] and, therefore, should be included in calculation of an affordability index. The National Association of Mutual Insurance Companies (NAMIC) commented that limiting the scope of an affordability index to liability insurance would lead to data quality problems because state minimums vary and some states require personal injury protection (PIP).[61]

Other commenters—AAA, Allstate, PIA, and PCI—submitted comments supporting FIO's view that an affordability index should measure only the cost of mandatory liability coverage. The AAA commented that the "optional [c]omprehensive and [c]ollision coverage should not be included" in an affordability index.[62] Allstate commented that "[i]nsurance expenditure should be adjusted to reflect the minimum coverage required; [because] it is likely that Affected Persons purchase lower coverage limits, which reduces the amount they spend on insurance relative to the average insurance consumer." [63] PIA commented that FIO should consider "only personal auto liability insurance in the standard market." [64] PCI commented that only "the mandatory personal auto liability " coverage for bodily injury and property damage should be included because "states generally require only the purchase of liability insurance as a condition of driving or owning a motor vehicle." [65] As explained in the July 2015 Notice, because liability coverage (or financial responsibility limit) is the only requirement imposed by states as a condition of driving or owning an automobile, FIO concludes that liability coverage should be the basis for calculating the Affordability Index. Many variables affect consumers' decisions on the amount of collision and/or comprehensive coverage to purchase. For example, risk-averse consumers or consumers seeking asset protection may purchase the maximum amount of coverage available, while risk-tolerant consumers may purchase only the mandatory minimums. By including collision or comprehensive coverage in its calculation of the Affordability Index, FIO would introduce unnecessary confounding variables unrelated to affordability into an already complex analysis. For these reasons, FIO will limit the calculation of the Affordability Index solely to premiums for mandatory liability coverage.

iii. Market Scope

Commenters were split on the issue of limiting the calculation of affordability to the standard market only. As explained by FIO in the July 2015 Notice, an affordability index may be calculated for the entire market for personal automobile liability insurance or a specific market within personal automobile insurance.[66] FIO explained that generally, annual premiums for personal automobile insurance are highest in the residual market, followed by the non-standard market, and then the standard market.[67] FIO proposed to use only premiums in the standard market in order to diminish the impact of the higher annual premiums charged to the highest risk drivers in the other markets.

Consumer advocates opposed the use of only data from the standard market and, rather, proposed including data from the non-standard and residual market as well.[68] CFA commented that residual and non-standard market should be included in an affordability index "because both of those markets serve, to some extent, good drivers who are Affected Person." [69] NYRL commented that data should include residual market and non-standard premiums because "good drivers are being placed in non-standard markets as a result of socioeconomic factors." [70] Other commenters supported FIO using only standard market data. The AAA and PIA stated that only data from the standard market should be considered in calculating an affordability index.[71] The PIA commented that using data in the standard market will "diminish the impact of annual premiums charged to high-risk drivers as well as state laws and other requirements." [72]

Notwithstanding the conflicting views, FIO notes that insurers generally use varying methodologies to rate policyholders who qualify for standard market premiums versus those who do not. For this reason, the exact size of the standard and the non-standard auto market is hard to calculate. The potential impact of excluding premium data for the non-standard market—estimated at 30 to 40 percent of the total private passenger auto insurance market [73]—when calculating the Affordability Index is significant. Accordingly, FIO will use data for both the standard and non-standard market to calculate the Affordability Index. As a result, FIO will capture relevant data, while addressing the concerns of consumer advocates that "good drivers are being placed in non-standard markets as a result of socioeconomic factors." [74] For present purposes, FIO will refer to the standard and non-standard market collectively as the "voluntary market," to distinguish it from the residual market and state assigned risk pools.

iv. Affected Persons

FIO has revised its definition of Affected Persons. In the July 2015 Notice, FIO adopted the term "Affected Persons" to collectively refer to "traditionally underserved communities and consumers, minorities, and low- and moderate-income persons." FIO then proposed an approach to account for such persons in its working definition. First, FIO proposed to use "urban area" as the proxy for defining "traditionally underserved communities and consumers," following the Census Bureau definition of urban area, "as densely developed territory that encompasses at least 2,500 people of which at least 1,500 reside outside institutional group quarters." [75] Second, adapting the FDIC definitions for low-income and moderate-income, FIO proposed, for purposes of its definition of LMI, to consider individuals living in areas where the annual income of the geographic area is less than 80 percent of the median household income of a

[58] NYRL Comment, *supra* note 37, at 4. *See also* CFA Comment, *supra* note 37, at 3.

[59] CFA Comment, *supra* note 37, at 3.

[60] NYRL Comment, *supra* note 37, at 4.

[61] *See* NAMIC, at 5 (August 31, 2015) *available at http://www.regulations.gov/#!documentDetail;D=TREAS-DO-2015-0005-0007* (NAMIC Comment).

[62] AAA Comment, *supra* note 52, at 1.

[63] Allstate Comment, *supra* note 55, at 2.

[64] PIA Comment, *supra* note 36, at 2.

[65] PCI Comment, *supra* note 35, at 2.

[66] July 2015 Notice, *supra* note 3, at 38,280.

[67] *Id.*

[68] CFA Comment, *supra* note 37, at 5–6; NYRL Comment, *supra* note 37, at 4.

[69] CFA Comment, *supra* note 37, at 5.

[70] NYRL Comment, *supra* note 37, at 4.

[71] AAA Comment, *supra* note 52, at 1; PIA Comment, *supra* note 36, at 2.

[72] PIA Comment, *supra* note 36, at 2.

[73] Andrea Wells, "*Nonstandard Auto Insurance Market Is Not For Everybody,*" *Insurance Journal* (April 13, 2015), *available at http://www.insurancejournal.com/news/national/2015/04/13/364065.htm.*

[74] NYRL Comment, *supra* note 37, at 4.

[75] July 2015 Notice, *supra* note 3, at 38,280; Census Bureau, "2010 Census Urban Area FAQs," *available at https://www.census.gov/geo/reference/ua/uafaq.html.*

metropolitan statistical area or state.[76] In explaining its decision, FIO noted that the FDIC defines low-income as ''individuals and geographies having a median family income less than 50 percent of the area median income'' and moderate income as ''individuals and geographies having a median family income of at least 50 percent and less than 80 percent of the area median income.'' [77] Third, FIO noted that ''minorit[y]'' is defined by law as ''Black American, Native American, Hispanic American, or Asian American,'' which is the definition incorporated by reference in the Wall Street Reform Act.[78] In addition, FIO proposed to use ZIP Codes in which the minority population exceeded 50 percent as the standard for majority-minority geographic areas.[79]

FIO received several comments in response to the July 2015 Notice regarding its proposed definition and parameters to account for Affected Persons. One comment encouraged FIO to define Affected Persons broadly in order to include communities that are marginalized because of factors beyond income.[80] Two commenters opined that using geographic areas to identify Affected Persons may be the most practical way to approach the affordability analysis, with one of those respondents suggesting the use of ZIP Codes as the measurement of geographic area.[81] Another commenter cautioned that the use of ''urban areas'' as a proxy for ''traditionally underserved communities'' would create a statistical category covering over 80 percent of the U.S. population, as over 250 million people live in ''urban areas.'' [82] Another commenter stated that the proposed definition for Affected Persons would be unmanageable because it would combine populations (LMI and minorities) with multiple and overlapping geographic units (*i.e.,* ZIP Codes and Census Bureau ''urban areas'').[83] Relatedly, a letter by the Ranking Member of the U.S. House of Representatives Financial Services Committee, Congresswoman Maxine Waters, to FIO Director Michael McRaith, cautioned against the use of ''urban areas'' as a proxy for ''traditionally underserved communities'' because that term would exclude rural areas and could unduly skew data because of the presence of high-income households in high-density urban areas.[84] Finally, a commenter warned that many states prohibit insurers from collecting data on income, race, religion, national origin, sex, familial status, or disability; insurers do not want to collect such data; and any requirement that insurers collect such data could create conflicting regulatory requirements.[85]

FIO agrees with the commenters who suggested that its earlier proposal to use the Census Bureau-defined term ''urban areas'' as a proxy for identifying ''traditionally underserved communities (including rural areas) and consumers'' would fail to adequately capture and account for Affected Persons. Using ''urban areas'' as a proxy raises two significant concerns. First, the proposed proxy is over-inclusive because ''urban areas'' account for over 80 percent of the U.S. population.[86] This level of coverage could capture numerous communities and consumers that would not meet any reasonable definition of traditionally underserved. Second, the proxy would exclude rural communities. The CFA commented that FIO could attempt to use ZIP Codes with high levels of uninsured motorists as a proxy to identify ''underserved'' areas, but conceded that even that data is not easily obtained, and noted that ''LMI ZIP Codes and majority minority ZIP Codes'' sufficiently capture those communities that would be properly considered ''underserved'' in this context.[87]

The Wall Street Reform Act does not provide a definition of ''traditionally underserved communities and consumers'' or a methodology for identifying such communities or consumers. Likewise, the legislative history of the statute does not establish a clear or specific Congressional intent as to the meaning of the phrase.[88] Given the lack of a statutory definition and an acceptable working definition and parameters for ''traditionally underserved communities and consumers,'' FIO reexamined the approach to the definition and parameters for Affected Persons as a whole and agrees with the observations of CFA about the challenges of defining ''underserved'' areas. Accordingly, in lieu of using urban areas as a proxy for identifying underserved communities as previously proposed, FIO adopts the approach recommend by CFA and instead will use ''LMI ZIP Codes and majority minority ZIP Codes'' [89] to capture those communities that would be considered underserved.

Based on stakeholder comments and its own research, FIO affirms the validity of the definition and parameters it adopted for identifying minority and LMI populations subject to the refinements discussed below. FIO will use the definition of minority set by law as ''Black American, Native American, Hispanic American, or Asian American.'' FIO has revised its adaptation of the FDIC methodology it proposed in the July 2015 Notice for identifying LMI persons. Following more precisely the practice of the FDIC, FIO will use median family income for designating LMI geographies instead of using median household income.[90] FIO makes this change for two reasons: (1) Aggregated non-MSA [91] median household income data is not readily available, and (2) existing regulatory frameworks tend to use median family income data instead of median household income when analyzing geographic areas. For example, the Federal Financial Institutions Examination Council produces annual data tables by MSA, metropolitan division (MD), and non-MSA using family income for the Community Reinvestment Act (CRA) examination of banks.[92] As noted above, the FDIC uses median family income to designate low- and moderate-income individuals and geographies. The lack of aggregated household income data for non-MSA areas would pose a challenge for FIO to readily identify rural LMI areas. Therefore, FIO will use median family

[76] *Id.*

[77] *Id.* (citing FDIC, ''Community Reinvestment Act (CRA) Performance Ratings,'' *available at https://www2.fdic.gov/crapes/peterms.asp).*

[78] *Id.* (citing 31 U.S.C. 313(c)(1)(B) (incorporating by reference the definition established in 12 U.S.C. 1811 note)).

[79] *Id.*

[80] NYRL Comment, *supra* note 37, at 1.

[81] Allstate Comment, *supra* note 55, at 6; CFA Comment, *supra* note 37, at 4–5.

[82] FSR Comment, *supra* note 34, at 8.

[83] IRC Comment, *supra* note 40, at 2.

[84] Ranking Member Waters letter to Director McRaith, re FIO's efforts to monitor the availability and affordability of automobile insurance (November 19, 2015) (Waters' Letter).

[85] AIA Comment, *supra* note 51, at 3.

[86] FSR Comment, *supra* note 34, at 8–9 & fn.22.

[87] CFA Comment, *supra* note 37, at 5.

[88] FIO notes that the CFPB has adopted a definition for ''underserved.'' According to the CFPB regulation at 12 CFR 1026.35(b)(2)(iv)(B): A county is ''underserved'' during a calendar year if, according to Home Mortgage Disclosure Act data for the preceding calendar year, no more than two creditors extended covered transactions, as defined in § 1026.43(b)(1), secured by a first lien, 5 or more times in the county. FIO has not adopted this approach because it is not well suited to insurance.

[89] CFA Comment, *supra* note 37, at 5.

[90] This definition is based on the definition used in the Community Reinvestment Act examination and accepted and implemented by the Community Development Block Grant program, FDIC, Federal Reserve Board of Governors, Office of the Comptroller of the Currency, and the Federal Financial Institutions Examination Council.

[91] An ''MSA'' is a metropolitan statistical area as defined by the Director of the Office of Management and Budget.

[92] *See, e.g.,* 12 CFR part 345, 12 CFR 228.12, and 12 CFR part 25.

income and not median household income to identify LMI geographies.

Accordingly, FIO will adopt the revised definition and parameters in its final working definition to account for Affected Persons as (1) persons living in majority-minority ZIP Codes, and (2) persons living in majority-LMI ZIP Codes.[93] FIO believes that this approach results in a more workable framework while still reflecting the intent of the statute to monitor "traditionally underserved communities and consumers."

The Affordability Index is calculated as premiums divided by income. In essence, it measures insurance expenditure expressed as percentage relative to income. While FIO's authority is to monitor the availability and affordability of insurance for Affected Persons, an automobile insurance premium study is most useful if linked to geography. This fact supports using majority-minority ZIP Codes and majority-LMI ZIP Codes as parameters to account for Affected Persons. FIO does not have ready access to individual insurance premium experiences and corresponding personal demographics data and, as commenters have pointed out, it is unlikely that insurers and statistical agents have this demographic data. Consistent with the reasoning in the July 2015 Notice, aggregate geographic areas can act as useful proxies to account for Affected Persons. In lieu of obtaining individualized data that may not be maintained by insurers, ZIP Code provides the closest proxy for observing the experiences of Affected Persons within discrete measurable geographic areas for which data is collected and available.[94] Insurers acquire data to set premiums and, in so doing, capture policyholders' addresses, including ZIP Codes, for account billing, marketing, and other purposes. Accordingly, FIO will use ZIP Codes to define the geographic areas for calculating the Affordability Index because ZIP Code premium data is available and has (1) greater capacity to show variance across populations and geographic regions than counties and states; and (2) lower margins of errors than demographic data based on census tract. Incorporating these attributes of ZIP Codes has a positive impact on FIO's Affordability Index by providing a more detailed view of Affected Persons' automobile insurance experience than using state and county level data, and a more precise view than using census tract level data. This approach is consistent with prior reports studying the affordability of U.S. automobile insurance which analyzed ZIP Code-driven geographic areas.[95] Focusing analysis on a ZIP Code basis allows areas with high concentrations of Affected Persons to be specifically evaluated, thereby facilitating understanding of the insurance experiences of Affected Persons across the United States and compensating for the lack of individualized data about Affected Persons.

In its July 2015 Notice, FIO proposed defining majority-minority geographic areas as those ZIP Codes in which the minority population exceeds 50 percent.[96] Although FIO proposed that, for purposes of its working definition, it would define LMI individuals as those living in areas where the annual income of the geographic area is less than 80 percent of the median household income of a metropolitan statistical area or state,[97] it did not provide the parameters for establishing the geographic areas for LMIs. As explained above, using a ZIP Code as a unit of analysis allows FIO to match demographic data for Affected Persons to aggregated data already collected by insurers, including ZIP Code-level data regarding average premiums. Additionally, income data is readily available at the ZIP Code level. Both the CFA and NYRL commented that ZIP Codes should be considered in the identification of Affected Persons. The CFA commented that FIO should refine the proposed definition of "LMI people" to focus geographic areas "explicitly on LMI 'ZIP codes.'"[98] The NYRL commented that "the focus should be placed on zip codes identified as populated by low- to moderate-income individuals and zip codes with predominantly non-white populations," resulting in more targeted areas for FIO to "develop a more accurate evaluation of accessibility and affordability of personal auto insurance."[99] Based on the views expressed by commenters and stakeholders, and FIO's own analysis, FIO will use majority-minority ZIP Codes and majority-LMI ZIP Codes as parameters to ensure that the Affordability Index more accurately captures the experiences of Affected Persons.

The use of "majority-LMI ZIP Codes" in the final working definition adds specificity to the proposed definition's use of "specified geographic area" as the parameter for reflecting LMI persons in the calculations. For purposes of the final working definition, majority-minority ZIP Codes are those in which the minority population exceeds 50 percent, consistent with the proposed definition, and majority-LMI ZIP Codes are those in which LMI persons exceed 50 percent of the population. FIO is mindful of the IRC's comment that this approach could still result in an overlap of the categories of Affected Persons within the same ZIP Code. Thus, a majority-minority ZIP Code may also be a majority-LMI ZIP Code. FIO will keep this potential complication in mind when identifying majority-minority and majority-LMI ZIP Codes.

B. Definition of Affordability and Application of the Affordability Index

In developing its definition of affordability, FIO considered three definitions submitted by commenters in response to the April 2014 Notice, and ultimately proposed adopting the definition of "affordability" derived from a dictionary and submitted by one commenter: "being within the financial means of most people."[100] FIO explained that this "common sense definition may be used to develop 'a practical and effective approach to monitoring access to affordable personal automobile insurance,'" and proposed that it will presume automobile liability insurance is affordable for Affected Persons if the affordability index is less than or equal to 2 percent of household income.[101]

The FSR commented that generally the proposed definition is "an acceptable construct" but "strongly disagree[d] that it can be reconciled with the factors and criteria delineated under the proposed affordability index," and that "it is impossible to address the

[93] This definition will capture Affected Persons in both rural and urban areas.

[94] FIO considered but decided not to use census tract data for the Affordability Index because insurers do not sort data by census tract, but instead by ZIP Codes.

[95] *See* Tom Feltner and Douglas Heller, "High Price of Mandatory Auto Insurance in Predominantly African American Communities" (Consumer Federation of America November 2015), *available at http://consumerfed.org/wp-content/uploads/2015/11/151118_insuranceinpredominantlyafrican americancommunities_CFA.pdf?source=externa;* Stephen Brobeck and J. Robert Hunter,, "Lower-income Households and the Auto Insurance Marketplace: Challenges and Opportunities" (Consumer Federation of America, January 2012), *available at http://consumerfed.org/reports/cfa-report-title-forthcoming/;* NAIC, "NAIC Insurance Availability and Affordability Task Force Final Report" (January 1998), *available at http://www.naic.org/documents/prod_serv_special_iaa_pb.pdf.*

[96] July 2015 Notice, *supra* note 3, at 38,280.

[97] *Id.*

[98] CFA Comment, *supra* note 37, at 4.

[99] NYRL Comment, *supra* note 37, at 4.

[100] July 2015 Notice, *supra* note 3, at 38,279 & fn. 29 (citing PCI, at 1 (June 9, 2014), *available at http://www.regulations.gov/#!documentDetail;D=TREAS-DO-2014-0001-0020*).

[101] July 2015 Notice, *supra* note 3, at 38,280.

issue of affordability without openly referencing the concepts of consumer choice." [102] The AIA commented that the "proposed definition is vague and ambiguous, and does not consider variations among states in required liability limits, . . . mandated personal injury protection (PIP), or claim and litigation environments" and "suggest[ed] that a reasonable definition . . . is one that recognizes relativity and consumer choice." [103] NAMIC commented that although it understood "the difficulty in attempting to create such a definition," it found the proposed definition of affordable confusing because of "the juxtaposition of 'most people' and 'Affected Persons,'" and that "[i]t is not clear what 'most people' means" in the context of the definition.[104]

CFA commented that affordability "must be precisely defined rather than defined loosely as 'within the financial means of most people,'" and "that two percent of the household income of an Affected Person is the appropriate standard." [105] Further, CFA stated that assessment of affordability should be relative to the purchasing capacity of low- and moderate-income persons, because "it is essential that affordability is gauged against the ability of low-wealth drivers to purchase insurance." [106]

As these varying comments from the insurance industry and consumer advocates illustrate, there is not one generally acceptable method or definition of affordability. Rather, there are differing views, approaches, and methodology. Accordingly, FIO has considered all the comments provided, and adopts an objective standard as its first formal measure and definition of affordability of automobile insurance for Affected Persons. For the reasons explained in the July 2015 Notice, and reiterated below, FIO presumes that personal automobile liability insurance is affordable if the Affordability Index is less than or equal to 2 percent in the areas used to account for Affected Persons. In explaining its proposal, FIO cited a study of the affordability of personal automobile insurance that found the national average insurance expenditures divided by national median income has been below two percent since 1995.[107] FIO also cited a report that found, based on 2013 data, that consumers spent about 1.6 percent of average income (after taxes) on auto insurance.[108]

In comments to the July 2015 Notice, consumer advocates generally favored the 2 percent benchmark, while insurers and industry representatives opposed the adoption of a fixed numerical value as a measure for affordability. Both the CFA and NYRL stated that 2 percent is consistent with previous analysis of basic household budgets.[109] On the other hand, insurers and others generally opposed adopting the 2 percent metric. The AIA stated that the 2 percent is artificial.[110] The AAA stated that the 2 percent is only a single measure, and using it alone may be ill-advised because it could over simplify the complex task of defining "affordability." [111] Allstate expressed concerns with the 2 percent, stating that FIO should monitor actual cost rather than make subjective assessments using a threshold.[112] The FSR indicated that 2 percent is a misrepresentation of the term "affordable" and is unjustifiably low; and that it could create a perception that automobile insurance coverage is an inexpensive service whose price can easily be altered to meet particular needs and situation of each particular consumer.[113] The IRC said the 2 percent is arbitrary in that an external reference or standard does not exist to support it; [114] while NAMIC stated that a reasonable basis for a 2 percent standard does not exist, and that it raises the question of how much the expenditure may deviate from the specified percentage before automobile liability insurance is deemed "unaffordable." [115] The PIA said that relying on a metric to define affordability in terms of a percentage could lead to the desire to "fix" the problem by some kind of a subsidy; [116] and the PCI said the 2 percent is weighted heavily towards the higher income groups because LMIs, by definition, will spend a higher percentage of their income on automobile insurance as would be the case for other necessities.[117]

FIO has carefully considered the views expressed by the commenters on this subject, including those who oppose using the 2 percent measure. Nevertheless, for purposes of monitoring the affordability of personal auto liability insurance, FIO will presume that insurance is affordable if the Affordability Index is less than or equal to the 2 percent benchmark. Based on the final working definition, the Affordability Index is the average annual premium divided by median household income.[118]

In adopting this threshold, FIO considered that the overall cost of living varies considerably across the nation and that variation is reflected in part by the variation in household income. By basing the threshold on a specific percentage of household income, the measure will adjust, at least in part, for the variations in the overall cost of living and income levels from region to region. Using household income at the ZIP Code level is superior to other approaches because it (1) applies to more of the population than family income, (2) lessens the effect of outliers that could skew averages, (3) avoids the complexity of residual income approaches that could be biased due to high cost areas, and (4) is a widely accepted and used component to analyze affordability of other consumer products.[119]

In settling on the 2 percent benchmark, FIO was most persuaded by the data in the Consumer Expenditure Survey, as produced by the Census Bureau and the BLS, which showed that the average household spent 2 percent of its income on automobile insurance.[120] FIO notes that other key consumer goods and services already have an established affordability threshold that is expressed as a percentage of household income. For example, the affordability threshold for housing is 30 percent, healthcare is 9.56

[102] FSR Comment, *supra* note 34, at 4.

[103] AIA Comment, *supra* note 51, at 2.

[104] NAMIC Comment, *supra* note 63, at 2.

[105] CFA Comment, *supra* note 37, at 1.

[106] *Id.*

[107] July 2015 Notice, *supra* note 3, at 38,280 (citing IRC, "*Auto Insurance Affordability,*" (November 2013), at 7).

[108] *Id.* at 38,280. *See also* BLS, Current Employment Statistics, *supra* note 19.

[109] CFA Comment, *supra* note 37, at 3; NYRL Comment, *supra* note 37, at 3.

[110] AIA Comment, *supra* note 51, at 3.

[111] AAA Comment, *supra* note 52, at 2.

[112] Allstate Comment, *supra* note 55, at 2.

[113] FSR Comment, *supra* note 34, at 5–6.

[114] IRC Comment, *supra* note 40, at 2.

[115] NAMIC Comment, *supra* note 63, at 3–4.

[116] PIA Comment, *supra* note 36, at 2.

[117] PCI Comment, *supra* note 35, at 2.

[118] More specifically, as described above, the Affordability Index will be calculated using the average annual written premium for personal automobile liability insurance in the voluntary market, divided by median household income for areas which are majority-minority or majority-LMI, *i.e.*, Affected Persons exceed 50% of the population.

[119] *See, e.g.,* "America's Rental Housing: Evolving Markets and Needs," (Joint Center for Housing Studies of Harvard University (2013), *available at http://www.jchs.harvard.edu/sites/jchs.harvard.edu/files/jchs_americas_rental_housing_2013_1_0.pdf;* and, New York City Rent Guidelines Board, "2015 Income and Affordability Study" (April 2015), *available at http://www.nycrgb.org/downloads/research/pdf_reports/ia15.pdf* (using household income in rental housing affordability study).

[120] BLS Consumer Expenditure Survey, "Table 1110. Deciles of income before taxes: Annual expenditure means, shares, standard errors, and coefficients of variation" (2014), *available* at *http://www.bls.gov/cex/2014/combined/decile.pdf.*

percent,[121] and residential running water is 2 percent.[122]

Therefore, FIO adopts a 2 percent Affordability Index as a reasonable empirical benchmark for monitoring affordability and for the study to compare the cost of automobile insurance for Affected Persons. FIO acknowledges that the Affordability Index does not account for all circumstances which may be relevant to an individual consumer's cost of personal automobile insurance. Affordability for any individual consumer can be assessed accurately only within the context of that consumer's circumstances.

C. Data Sources

In the July 2015 Notice, FIO specifically requested input on how to best obtain appropriate data to monitor effectively the affordability of personal automobile insurance for Affected Persons. After considering stakeholder comments and potential information services, FIO intends to collect and analyze data received and aggregated by statistical agents. In addition, FIO will use data publicly available through the Census Bureau.[123] In response to FIO's request, consumer advocate commenters suggested that FIO issue a data call to the 100 largest insurers in each state in order to obtain vehicle data and to reflect the premiums actually offered to Affected Persons.[124]

Contrary to comments from consumer advocates and the views expressed by Ranking Member Waters,[125] industry stakeholder comments objected to FIO issuing any data calls or other mandatory collections. Many argued that FIO could obtain information it needed from existing sources. The AIA commented that FIO should consult with the Automobile Insurance Plan Service Office (AIPSO) for data,[126] while the AAA commented that FIO should use data available from statistical agents such as the Independent Statistical Services (ISS), Insurance Services Office (ISO), and the National Institute of Statistical Sciences (NISS). Allstate commented that FIO should use data available from the NAIC, the Insurance Information Institute (III), and IRC.[127] The FSR expressed concerns about the substance, workability, cost, and administrative burden of a data call.[128] The IRC commented that FIO should conduct an analysis of existing data before initiating research requiring new and costly data reporting and collection efforts.[129] NAMIC, IRC and FSR's comments averred that FIO should first analyze and report existing studies and other data already available.[130] In addition, NAMIC's commented that the term "monitor" should not be interpreted as authority for FIO to collect data directly from insurers.[131] Finally, PCI stated that FIO should use BLS and Census Bureau data, and if FIO were to issue a data call, then it should rely upon third parties—statistical agents like ISO, ISS, and NISS—to aggregate that data.[132]

FIO has reviewed and evaluated the comments received from stakeholders on whether to collect data directly from industry to support this work, and respects concerns about duplicative information gathering. FIO intends to avoid unnecessary burdens or expenses on stakeholders. FIO will exercise all reasonable efforts to use existing available information. Accordingly, at this time, FIO will not collect data directly from insurers through a data call as proposed in the July 2015 Notice.

For its initial affordability study, FIO will use data currently available from the Census Bureau,[133] statistical agents, and certain states. In this regard, 20 states require insurers to report ZIP Code-level automobile premium data to one of three statistical agents (ISO, ISS, and NISS) who collect and aggregate this data.

For purpose of its next study in 2017, FIO will request data from insurers who have a statutory surplus greater than $500 million as of December 31, 2015, and who annually collect more than $500 million of premium for personal automobile insurance.

For 2017, FIO will request that large insurers who do not already report ZIP Code-level premium data voluntarily provide that data to the statistical agents with which the insurers typically work. FIO will ask that insurers covered by this request provide the statistical agents the following information: (i) ZIP Code-level premium data, (ii) for liability coverage at the financial responsibility limit, (iii) for the voluntary market.

In combination, the data sources described above are expected to provide sufficient data to support the objective analysis necessary for FIO to monitor the affordability of personal auto insurance for Affected Persons. If, however, FIO receives incomplete data, or if insurers or statistical agents are not responsive to this request, FIO may collect information directly from those insurers in the future.

Going forward, FIO will rely upon the methodology and the data described above to calculate the Affordability Index it will use to monitor the affordability of automobile insurance premiums in majority-minority or majority-LMI ZIP Codes. FIO will publicly report its findings annually and note, among other things, the trend of the Affordability Index relative to each of the analyzed ZIP Codes.

Michael T. McRaith,

Director, Federal Insurance Office.

[FR Doc. 2016–16536 Filed 7–12–16; 8:45 am]

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[121] Shared Responsibility for Employers Regarding Health Coverage, 79 FR 8544 (Feb. 12, 2014), *available at https://www.gpo.gov/fdsys/pkg/FR-2014-02-12/pdf/2014-03082.pdf;* 26 CFR 601.105, *available at https://www.irs.gov/pub/irs-drop/rp-14-62.pdf.*

[122] The cost of water/wastewater is considered unaffordable when it exceeds 2% of median household income. *See* U.S. Environmental Protection Agency, Memorandum re: Financial Capability Assessment Framework for Municipal Clean Water Act Requirements (Nov. 24, 2014), *available at http://www.epa.gov/sites/production/files/2015-10/documents/municipal_fca_framework.pdf.*

[123] *See* Census Bureau, "American Fact Finder," *available at http://factfinder.census.gov/.*

[124] CFA Comment, *supra* note 37, at 6; NYRL Comment, *supra* note 37, at 5–6.

[125] Waters' Letter, *supra* note 86.

[126] AIA Comment, *supra* note 51, at 5.

[127] Allstate Comment, *supra* note 52, at 2.

[128] FSR Comment, *supra* note 34, at 3.

[129] IRC Comment, *supra* note 40, at 3.

[130] NAMIC Comment, *supra* note 63, at 4–5; IRC Comment, *supra* note 40, at 3; and FSR Comment, *supra* note 34, at 3–4, 10–11.

[131] NAMIC Comment, *supra* note 63, at 5.

[132] *See* PCI Comment, *supra* note 35, at 5.

[133] *See* Census Bureau, "American Fact Finder," *available at http://factfinder.census.gov/.*

DEPARTMENT OF THE TREASURY

Proposed Collection; Comment Request

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on a proposed information collection that will be submitted for approval by the Office of Management and Budget. The Federal Insurance Office (FIO) is monitoring the extent to which traditionally underserved communities and consumers, minorities, and low- and moderate-income persons have access to affordable personal automobile insurance, pursuant to 31 U.S.C. 313(c)(1)(B).

DATES: Written comments must be received not later than September 12, 2016.

ADDRESSES: Please submit comments electronically through the Federal eRulemaking Portal at *http://www.regulations.gov,* in accordance with the instructions on that site, or by mail (if hard copy, preferably an original and two copies) to the Federal Insurance Office, Attention: Lindy Gustafson, Room 1410 MT, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220. As postal mail may be subject to processing delay, it is recommended that comments be submitted electronically.

In general, the Department will post all comments to *www.regulations.gov* without change, including any business or personal information provided such as names, addresses, email addresses, or telephone numbers. The Department also will make comments available for public inspection and copying in the Treasury's Library, 1500 Pennsylvania Avenue NW., Washington, DC 20220, on official business days between the hours of 10:00 a.m. and 5:00 p.m. Eastern Time. You can make an appointment to inspect comments by telephoning 202–622–0990. All comments, including attachments and other supporting materials, are part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Lindy Gustafson, Federal Insurance Office, 202–622–6245 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

OMB Number: 1505–XXXX.

Title: Monitoring the Affordability of Personal Automobile Insurance.

Abstract: Subtitle A of Title V of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 established the Federal Insurance Office (FIO) in the Department of the Treasury and, among other things, authorizes FIO to monitor the extent to which traditionally underserved communities and consumers, minorities, and low- and moderate-income persons (collectively, Affected Persons) have access to affordable insurance products regarding all lines of insurance other than health insurance. Under this authority, FIO is monitoring the availability and affordability of personal automobile liability insurance for Affected Persons, as detailed in notices previously published in the **Federal Register**. *See* 79 FR 19969 (April 10, 2014) and 80 FR 38277 (July 2, 2015). FIO will be continuing to review publicly available data. In addition, FIO will be reviewing data from statistical agents. Pursuant to this Notice, FIO also intends to request that insurers that have a statutory surplus greater than $500 million at the end of the preceding calendar year, and annually write more than $500 million of premium for personal automobile insurance (collectively, Large Insurers), voluntarily provide premium data, to statistical agents designated by FIO, for further analysis by FIO.

Type of Review: New data collection.

Affected Public: Large Insurers; statistical agents.

Estimated Number of Respondents: 40.

Estimated Average Time per Respondent: Not to exceed 50 hours.

Estimated Total Annual Burden Hours: Not to exceed 2,000 hours.

Request for Comments: An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collection; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Michael T. McRaith,

Director, Federal Insurance Office.

[FR Doc. 2016–16537 Filed 7–12–16; 8:45 am]

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FEDERAL REGISTER

Vol. 81 Wednesday,
No. 134 July 13, 2016

Part II

The President

Proclamation 9467—Honoring the Victims of the Attack in Dallas, Texas

Federal Register
Vol. 81, No. 134
Wednesday, July 13, 2016

Presidential Documents

Title 3—

The President

Proclamation 9467 of July 8, 2016

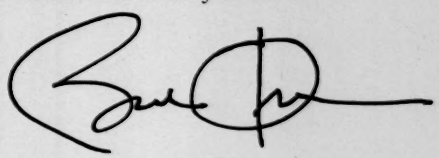
Honoring the Victims of the Attack in Dallas, Texas

By the President of the United States of America

A Proclamation

As a mark of respect for the victims of the attack on police officers perpetrated on Thursday, July 7, 2016, in Dallas, Texas, by the authority vested in me as President of the United States by the Constitution and the laws of the United States of America, I hereby order that the flag of the United States shall be flown at half-staff at the White House and upon all public buildings and grounds, at all military posts and naval stations, and on all naval vessels of the Federal Government in the District of Columbia and throughout the United States and its Territories and possessions until sunset, July 12, 2016. I also direct that the flag shall be flown at half-staff for the same length of time at all United States embassies, legations, consular offices, and other facilities abroad, including all military facilities and naval vessels and stations.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of July, in the year of our Lord two thousand sixteen, and of the Independence of the United States of America the two hundred and forty-first.



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